

## PERFORMANCE METRICS CATEGORIES

Metric Number	Metric Name	Metric Number	Metric Name
<b>Preorder and OSS Availability:</b>		<b>Change Management, Billing, OS/DA, Interconnection and Collocation:</b>	
OR-1-02	% On Time LSRC – Flow Through	BI-1-02	% DUF in 4 Business Days
OR-1-04	% On Time LSRC No Facility Check	BI-2-01	Timeliness of Carrier Bill
OR-1-06	% On Time LSRC/ASRC Facility Check	BI-3-01	% Billing Adjustments - Dollars Adjusted
OR-1-07	Average ASRC Time No Facility Check	BI-3-02	% Billing Adjustments - Number of Adjustments
OR-1-08	% On Time ASRC No Facility Check	BI-3-04	% CLEC Billing Claims Acknowledged Within Two Business Days
OR-1-10	% On Time ASRC Facility Check	BI-3-05	% CLEC Billing Claims Resolved Within 28 Calendar Days After Acknowledgement
OR-1-11	Av. FOC Time	NP-1-01	% Final Trunk Groups Exceeding Blocking Standard
OR-1-12	% On Time FOC	NP-1-02	% FTG Exceeding Blocking Std. –(No Exceptions)
OR-1-13	% On Time Design Layout Record (DLR)	NP-2-01	% On Time Response to Request for Physical Collocation
OR-1-19	% On Time Resp. - Request for Inbound Augment Trunks	NP-2-02	% On Time Response to Request for Virtual Collocation
PO-1-01	Customer Service Record	NP-2-03	Average Interval – Physical Collocation
PO-1-02	Due Date Availability	NP-2-04	Average Interval – Virtual Collocation
PO-1-03	Address Validation	NP-2-05	% On Time – Physical Collocation
PO-1-04	Product & Service Availability	NP-2-06	% On Time – Virtual Collocation
PO-1-05	Telephone Number Availability & Reservation	NP-2-07	Average Delay Days – Physical Collocation
PO-1-06	Average Response Time - Mechanized Loop Qual - DSL	NP-2-08	Average Delay Days – Virtual Collocation
PO-1-07	Rejected Query	<b>Ordering:</b>	
PO-1-09	Parsed CSR	OR-2-02	% On Time LSR Reject – Flow Through
PO-2-01	OSS Interf. Avail. – Total	OR-2-04	% On Time LSR Reject < 6 Lines - Electronic - No Flow-Through
PO-2-02	OSS Interf. Avail. – Prime Time	OR-2-06	% On Time LSR Reject >= 6 Lines - Electronic - No Flow-Through
PO-2-03	OSS Interf. Avail. – Non-Prime	OR-2-08	% On Time LSR Reject < 6 Lines - Fax
PO-4-01	% Notices Sent on Time	OR-2-10	% On Time ASR Reject Facility Check
PO-4-02	Change Mgmt. Notice - Delay 1-7 Days	OR-2-11	Average Trunk ASR Reject Time (<= 192 Forecasted Trunks)
PO-4-03	Change Mgmt. Notice - Delay 8+ Days	OR-2-12	% On Time Trunk ASR Reject (<= 192 Forecasted Trunks)
PO-8-01	% On Time - Manual Loop Qualification	OR-3-01	% Rejects
PO-8-02	% On Time - Engineering Record Request	OR-4-02	Completion Notice (BCN) – % On Time
MR-1-01	Create Trouble	OR-4-05	Work Completion Notice (PCN) – % On Time

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Metric Number	Metric Name
OR-4-12	% Due Date to PCN within 2 Business Days
OR-4-14	% Due Date to BCN within 4 Business Days
OR-4-17	% Billing Completion Notifier sent within two Business Days
PR-5-03	% Orders Held for Facilities > 60 Days
OR-5-01	% Flow Through - Total
OR-5-02	% Flow Through - Simple
OR-5-03	% Flow Through Achieved
OR-6-01	% Accuracy - Orders
OR-6-02	% Accuracy - Opportunities
OR-6-03	% Accuracy - LSRC
OR-6-04-10	% Accuracy - Stand-alone Directory Listing Orders
OR-7-01	% Order Confirmation/Rejects sent within 3 Business Days
<b>Provisioning:</b>	
PR-1-09	Av. Interval Offered - Total
PR-2-01	Average Interval Completed - Total No Dispatch
PR-2-02	Average Interval Completed - Total Dispatch
PR-2-03	Average Interval Completed - Dispatch (1-5 Lines)
PR-2-04	Average Interval Completed - Dispatch (6-9 Lines)
PR-2-05	Average Interval Completed - Dispatch (>= 10 Lines)
PR-2-06	Average Interval Completed - DS0
PR-2-07	Average Interval Completed - DS1
PR-2-08	Average Interval Completed - DS3
PR-2-09	Av. Interval Completed - Total
PR-2-18	Average Interval Completed - Disconnects
PR-4-01	% Missed Appointment - Verizon
PR-4-02	Average Delay Days - Total
PR-4-03	% Missed Appointment - Customer
PR-4-04	% Missed Appointment - Verizon - Dispatch
PR-4-05	% Missed Appointment - Verizon - No Dispatch
PR-4-07	% On Time Performance - LNP Only
PR-4-08	% Missed Appt. - Customer - Late Order Conf.
PR-4-14	% Completed On Time [With Serial Number]
PR-4-15	% Completed On Time -DD-2 Test Total

Metric Number	Metric Name
PR-5-01-210	% Missed Appointment - Verizon - Facilities
PR-5-01	% Missed Appointment - Verizon - Facilities
PR-5-02	% Orders Held for Facilities > 15 Days
MR-4-10	Mean Time To Repair - Double Dispatch
MR-5-01	% Repeat Reports within 30 Days
PR-6-01	% Installation Troubles reported within 30 Days
PR-6-02	% Installation Troubles reported within 7 Days
PR-6-03	% Inst. Troubles reported w/ in 30 Days - FOK/TOK/CPE
PR-8-01	Open Orders in a Hold Status > 30 Days
PR-8-02	Open Orders in a Hold Status > 90 Days
PR-9-01	% On Time Performance - Hot Cut
PR-9-02	% Early Cuts - Lines
PR-9-08	Average Duration of Service Interruption
<b>Maintenance and Repair:</b>	
MR-2-01	Network Trouble Report Rate
MR-2-02	Network Trouble Report Rate
MR-2-03	Network Trouble Report Rate - Central Office
MR-2-04	% Subsequent Reports
MR-2-05	% CPE/TOK/FOK Trouble Report Rate
MR-3-01	% Missed Repair Appointment - Loop
MR-3-02	% Missed Repair Appointment - Central Office
MR-3-03	% CPE/TOK/FOK - Missed Appointment
MR-3-04	% Missed Repair Appointment - No Double Dispatch
MR-3-05	% Missed Repair Appointment - Double Dispatch
MR-4-01	Mean Time To Repair
MR-4-02	Mean Time To Repair - Loop Trouble
MR-4-03	Mean Time To Repair - Central Office Trouble
MR-4-04	% Cleared (all troubles) within 24 Hours
MR-4-05	% Out of Service > 2 Hours
MR-4-06	% Out of Service > 4 Hours
MR-4-07	% Out of Service > 12 Hours
MR-4-08	% Out of Service > 24 Hours
MR-4-09	Mean Time To Repair - No Double Dispatch

## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
OSS & BILLING (Pre-Ordering) - POTS/Special Services												
PRE-ORDERING												
PO-1 - Response Time OSS Pre-Ordering Interface												
PO-1-01-6020	Customer Service Record - EDI	0.89	2.86	0.32	2.74	0.22	2.52	0.25	2.88	0.21	2.95	
PO-1-01-6030	Customer Service Record - CORBA	0.89	0.85	0.32	0.86	0.22	0.9	0.25	1.06	0.21	1.12	
PO-1-01-6050	Customer Service Record -Web GUI	0.89	2.66	0.32	2.59	0.22	3.26	0.25	2.91	0.21	2.76	
PO-1-02-6020	Due Date Availability - EDI	1.15	NA	1.3	4.77	1.02	NA	1.09	4.22	1.05	4.07	2,4
PO-1-02-6030	Due Date Availability - CORBA	1.15	1.42	1.3	1.9	1.02	1.82	1.09	1.92	1.05	2.04	1,2
PO-1-02-6050	Due Date Availability - Web GUI	1.15	3.49	1.3	4.19	1.02	3.36	1.09	3.72	1.05	3.66	
PO-1-03-6020	Address Validation - EDI	4.58	6.61	4.83	6.18	4.04	5.93	4.05	6.04	4.02	5.91	
PO-1-03-6030	Address Validation - CORBA	4.58	4.5	4.83	6.43	4.04	7.15	4.05	6.68	4.02	4.75	
PO-1-03-6050	Address Validation - Web GUI	4.58	6.12	4.83	6.46	4.04	6.19	4.05	6.36	4.02	5.86	
PO-1-04-6020	Product & Service Availability - EDI	10.02	NA	10.93	NA	9.12	NA	9.07	NA	9.07	NA	
PO-1-04-6030	Product & Service Availability - CORBA	10.02	NA	10.93	NA	9.12	NA	9.07	NA	9.07	NA	
PO-1-04-6050	Product & Service Availability - Web GUI	10.02	14.31	10.93	14.84	9.12	15.07	9.07	13.23	9.07	13.17	
PO-1-05-6020	Telephone Number Availability & Reservation - EDI	5.64	NA	5.92	7.49	4.94	4.69	4.97	8.41	4.96	8.42	2,3
PO-1-05-6030	Telephone Number Availability & Reservation - CORBA	5.64	8.18	5.92	8.99	4.94	6.2	4.97	6.28	4.96	5.48	1,2
PO-1-05-6050	Telephone Number Availability & Reservation - Web GUI	5.64	7.53	5.92	7.86	4.94	7.61	4.97	7.46	4.96	7.62	
PO-1-06-6020	Average Response Time - Mechanized Loop Qualification - DSL - EDI	14.25	4.83	16.02	4.97	14.49	5.28	13.9	5.23	13.89	4.91	
PO-1-06-6030	Average Response Time - Mechanized Loop Qualification - DSL - CORBA	14.25	4.18	16.02	4.53	14.49	5.44	13.9	4.22	13.89	2.53	5
PO-1-06-6050	Average Response Time - Mechanized Loop Qualification - DSL - Web GUI	14.25	5.07	16.02	5.28	14.49	5.08	13.9	5.02	13.89	4.55	
PO-1-07-6020	Rejected Query - EDI	0.85	2.9	0.17	3.04	0.17	3.31	0.18	3.29	0.2	3.02	
PO-1-07-6030	Rejected Query - CORBA	0.85	0.81	0.17	0.76	0.17	0.91	0.18	0.87	0.2	0.97	
PO-1-07-6050	Rejected Query - Web GUI	0.85	2.94	0.17	2.94	0.17	3.14	0.18	3.1	0.2	2.92	
PO-1-08-6020	% Timeouts - EDI		0.37		0.01		0.15		0.23		0.27	
PO-1-08-6030	% Timeouts - CORBA		0.11		0.01		0.02		0		0	
PO-1-08-6050	% Timeouts - Web GUI		0.18		0.93		0.21		0.32		0.3	
PO-1-09-6020	Parsed CSR - EDI	0.89	1.95	0.32	1.95	0.22	1.98	0.25	2	0.21	2.04	

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Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PO-1-09-6030	Parsed CSR - CORBA	0.89	0.34	0.32	0.33	0.22	0.35	0.25	0.35	0.21	0.47	
<b>PO-2 - OSS Interface Availability</b>												
PO-2-02-6020	OSS Interf. Avail. - Prime Time - EDI		99.89		99.98		99.99		99.9		99.98	1,4,5
PO-2-02-6030	OSS Interf. Avail. - Prime Time - CORBA		99.96		100		100		99.96		100	
PO-2-02-6060	OSS Interf. Avail. - Prime Time - Electronic Bonding		100		100		99.82		100		100	3
PO-2-03-6020	OSS Interf. Avail. - Non-Prime - EDI		99.96		99.98		99.98		100		99.86	5
PO-2-03-6030	OSS Interf. Avail. - Non-Prime - CORBA		100		99.97		99.98		99.98		100	
<del>PO-2-03-6060</del>	<del>OSS Interf. Avail. - Non-Prime - Electronic Bonding</del>		<del>100</del>		<del>100</del>		<del>100</del>		<del>100</del>		<del>100</del>	
PO-2-03-6080	OSS Interf. Avail. - Non-Prime - Maint Web GUI / Pre Order/Ordering Web GUI		100		99.72		99.61		98.96		100	2,3,4
<b>PO-8 - Manual Loop Qualification</b>												
PO-8-01-2000	% On Time - Manual Loop Qualification		100		80		94.55		93.15		41.94	1
PO-8-02-2000	% On Time - Engineering Record Request		NA		NA		NA				NA	
<b>Change Notification</b>												
<b>PO-4 - Timeliness of Change Management Notice</b>												
PO-4-01-6660	% Notices Sent on Time - Industry Standard, Verizon Orig. & CLEC Orig.		100		100		NA				100	2,4
<del>PO-4-01-6671</del>	<del>% Notices Sent on Time - Emergency Maint. &amp; Regulatory</del>		<del>100</del>		<del>100</del>		<del>100</del>				<del>100</del>	<del>2,4,5</del>
PO-4-02-6660	Change Mgmt. Notice - Delay 1-7 Days - Ind. Std., Verizon Orig. & CLEC Orig.		NA		NA		NA				NA	
PO-4-02-6671	Change Mgmt. Notice - Delay 1-7 Days - Emergency Maint. & Regulatory		NA		NA		NA		NA		NA	
PO-4-03-6660	Change Mgmt. Notice - Delay 8+ Days - Ind. Std., Verizon Orig. & CLEC Orig.		NA		NA		NA		NA		NA	
PO-4-03-6671	Change Mgmt. Notice - Delay 8+ Days - Emergency Maint. & Regulatory		NA		NA		NA		NA		NA	
<b>Change Confirmation</b>												
<b>PO-4 - Timeliness of Change Management Notice</b>												
PO-4-01-6622	% Notices Sent on Time - Regulatory		NA		100		NA		NA		NA	
PO-4-01-6662	% Notices Sent on Time - Ind. Std., Verizon Orig. & CLEC Orig.		33		100		100		NA		NA	2,3

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Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PO-4-02-6622	Change Mgmt. Notice - Delay 1-7 Days - Regulatory		NA		NA		NA		NA		NA	
PO-4-02-6662	Change Mgmt. Notice - Delay 1-7 Days - Ind. Std., Verizon Orig. & CLEC Orig.		NA		NA		NA		NA		NA	
PO-4-03-6622	Change Mgmt. Notice - Delay 8+ Days - Regulatory		NA		NA		NA		NA		NA	
PO-4-03-6662	Change Mgmt. Notice - Delay 8+ Days - Ind. Std., Verizon Orig. & CLEC Orig.		228		NA		NA		NA		NA	
<b>TROUBLE REPORTING (OSS)</b>												
<b>MR-1 - Response Time OSS Maintenance Interface</b>												
MR-1-01-2000	Create Trouble	10.4	4.13	9.56	3.8	9.89	3.89	5.79	2.6	5.15	2.38	
<b>BILLING</b>												
<b>BI-1 - Timeliness of Daily Usage Feed</b>												
BI-1-02-2030	% DUF in 4 Business Days		97.26		99.68		99.76		99.76		99.35	
<b>BI-2 - Timeliness of Carrier Bill</b>												
BI-2-01-2030	Timeliness of Carrier Bill		100		100		100		100		100	
<b>BI-3 - Billing Accuracy &amp; Claims Processing</b>												
BI-3-04-2030	% CLEC Billing Claims Acknowledged Within Two Business Days		100		94.27		88.83		99.19		97.18	
BI-3-05-2030	% CLEC Billing Claims Resolved Within 28 Calendar Days After Acknowledgement		100		100		100		100		99.25	
<b>ORDERING</b>												
<b>OR-6 - Order Accuracy</b>												
OR-6-04-1020	% Accuracy - Stand-alone Directory Listing Orders		UD		96.15		98.08		98.45		98.43	
OR-6-04-1030	% Accuracy - Other Directory Listing Orders		98.79		97.1		97.41		99.76		98.24	
<b>RESALE Ordering</b>												
<b>OR-7 - Order Completeness</b>												
OR-7-01-2000	% Order Confirmation/Rejects sent within 3 Business Days		99.83		99.83		99.81		99.85		99.79	

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Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
POTS & Pre-qualified Complex - Electronically Submitted												
OR-1 - Order Confirmation Timeliness												
OR-1-02-2320	% On Time LSRC - Flow Through		99.88		99.73		98.41		96.55		96.95	
OR-1-04-2100	% On Time LSRC /ASRC - No Facility Check		96.92		96.5		93.36		93.53		94.9	
OR-1-06-2320	% On Time LSRC/ASRC Facility Check		97.78		100		98.68		96.97		97.92	
OR-2 - Reject Timeliness												
OR-2-02-2320	% On Time LSR Reject - Flow Through		99.68		99.57		98.77		98.55		98.32	
OR-2-04-2320	% On Time LSR/ASR Reject - No Facility Check		99.44		98.62		98.52		98.51		98.98	
OR-2-06-2320	% On Time LSR/ASR Reject Facility Check		100		100		100		100		100	
2 Wire Digital Services												
OR-1 - Order Confirmation Timeliness - Requiring Loop Qualification												
OR-1-04-2341	% On Time LSRC /ASRC - No Facility Check		100		100		100		100		100	
OR-1-06-2341	% On Time LSRC/ASRC Facility Check		100		100		100		100		50	1,2,3,4,5
OR-2 - Reject Timeliness - Requiring Loop Qualification												
OR-2-04-2341	% On Time LSR/ASR Reject - No Facility Check		100		100		100		100		100	3,5
OR-2-06-2341	% On Time LSR/ASR Reject Facility Check		100		100		NA		100		100	1,2,4,5
POTS / Special Services - Aggregate												
OR-3 - Percent Rejects												
OR-3-01-2000	% Rejects		18.23		16.24		21.56		21.84		16.27	
OR-4 - Timeliness of Completion Notification												
OR-5 - Percent Flow-Through												
OR-5-01-2000	% Flow Through - Total		80.06		83.08		86.32		86.72		90.78	
OR-5-03-2000	% Flow Through Achieved		96.8		97.48		97.44		96.55		98.4	
OR-6 - Order Accuracy												
OR-6-01-2000	% Service Order Accuracy		93.1		96.13		93.81		94.81		95.37	
OR-6-03-2000	% Accuracy - LSRC		0		0		0.06		0.14		0	
OR-7 - Order Completeness												
OR-7-01-2000	% Order Confirmation/Rejects sent within 3 Business Days		99.83		99.83		99.81		99.85		99.79	

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Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
Special Services - Electronically Submitted												
OR-1 - Order Confirmation Timeliness												
OR-1-04-2210	% On Time LSRC/ASRC - No Facility Check DS0		NA		NA		NA		NA		NA	
OR-1-04-2211	% On Time LSRC/ASRC - No Facility Check DS1		NA		NA		NA		NA		NA	
OR-1-04-2213	% On Time LSRC/ASRC - No Facility Check DS3		NA		NA		NA		NA		NA	
OR-1-04-2214	% On Time LSRC/ASRC - No Facility Check (Non DS0, DS1, & DS3)		100		100		100		100		50	2,3,4,5
OR-1-06-2210	% On Time LSRC/ASRC Facility Check DS0		NA		NA		NA		NA		NA	
OR-1-06-2211	% On Time LSRC/ASRC Facility Check DS1		NA		NA		NA		NA		NA	
OR-1-06-2213	% On Time LSRC/ASRC Facility Check DS3		NA		NA		NA		NA		NA	
OR-1-06-2214	% On Time LSRC/ASRC Facility Check (Non DS0, DS1, & DS3)		NA		100		100		100		100	2,3,4,5
OR-2 - Reject Timeliness												
OR-2-04-2200	% On Time LSR/ASR Reject - No Facility Check		100		100		88.89		90		71.43	2
OR-2-06-2200	% On Time LSR/ASR Reject Facility Check		NA		NA		100		100		NA	3,4
Resale (Provisioning) - POTS/Special Services												
POTS - Provisioning - Total												
PR-4 - Missed Appointments												
PR-4-02-2100	Average Delay Days - Total	2.8	3.08	3.13	5.11	2.93	2.22	2.7	2.78	3.95	1.35	
PR-4-03-2100	% Missed Appointment - Customer		1.27		1.56		1.53		2.4		2.45	
PR-4-04-2100	% Missed Appointment - Verizon - Dispatch	10.92	1.1	11.53	1.25	9.5	0.64	10.76	2.96	10.01	4.61	
PR-4-05-2100	% Missed Appointment - Verizon - No Dispatch	1.31	0.05	0.56	0.06	0.55	0	0.95	0.04	1.96	0	
PR-5 - Facility Missed Orders												
PR-5-01-2100	% Missed Appointment - Verizon - Facilities	1.79	0.4	1.71	0.74	1.56	0.43	1.6	0.76	1.53	0.38	
PR-6 - Installation Quality												
PR-6-01-2100	% Installation Troubles reported within 30 Days	3.79	5.07	3.61	3.87	3.87	4.24	3.69	3.34	2.89	3.47	
PR-6-03-2100	% Inst. Troubles reported w/ in 30 Days - FOK/TOK/CPE		3.29		3.76		3.92		4.56		5.06	
PR-8 - Open Orders in a Hold Status												
PR-8-01-2100	Open Orders in a Hold Status > 30 Days	0.04	0.02	0.03	0	0.03	0	0.04	0	0.02	0	
PR-8-02-2100	Open Orders in a Hold Status > 90 Days	0.02	0	0.02	0	0.02	0	0.02	0	0.01	0	

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		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
POTS & Complex Aggregate												
2-Wire Digital Services												
PR-4 - Missed Appointments												
PR-4-02-2341	Average Delay Days - Total	6.35	NA	4.62	NA	6.02	NA	5.09	NA	7.11	2	5
PR-4-03-2341	% Missed Appointment - Customer		0		33.33		10		0		7.14	2,4
PR-4-04-2341	% Missed Appointment - Verizon - Dispatch	6.94	0	12.3	0	13.44	0	10.55	0	14.84	14.29	1,2,3,4,5
PR-4-05-2341	% Missed Appointment - Verizon - No Dispatch	1.32	0	0.55	0	0.84	0	0.67	0	0.64	0	2,3,4,5
PR-4-08-2341	% Missed Appt. - Customer - Late Order Conf.		0		0		0		0		0	2,4
PR-5 - Facility Missed Orders												
PR-5-01-2341	% Missed Appointment - Verizon - Facilities	1.67	0	1.16	0	1.66	0	1.07	0	0.35	0	1,2,3,4,5
PR-6 - Installation Quality												
PR-6-01-2341	% Install. Troubles Reported within 30 Days	3.8	NA	3.35	100	3.66	0	3.45	0	5.21	0	2,3,4,5
PR-6-03-2341	% Install. Troubles Reported w/in 30 Days - EOK /OK /CPE		NA		0		0		0		0	2,3,4,5

**PR-8 - Open Orders in a Hold Status**

PR-8-01-2341	Open Orders in a Hold Status > 30 Days	0.14	0	0	0	0.33	0	0.59	0	0.19	0	2,4
PR-8-02-2341	Open Orders in a Hold Status > 90 Days	0.07	0	0	0	0.08	0	0	0	0	0	2,4
<b>Special Services - Provisioning</b>												

**PR-4 - Missed Appointments**

PR-4-01-2210	% Missed Appointment - Verizon - DS0	7.2	8.33	21.68	11.11	9.72	21.43	12.75	0	23.47	0	4,5
PR-4-01-2211	% Missed Appointment - Verizon - DS1	15.17	NA	12.61	NA	18.13	0	16.67	NA	9.88	NA	3
PR-4-01-2213	% Missed Appointment - Verizon - DS3	0	NA	NA	NA	NA	NA	NA	NA	0	NA	
PR-4-01-2214	% Missed Appointment - Verizon - Special Other	3.23	20	9.52	NA	7.07	0	24.69	0	0	0	1,3,4,5
PR-4-03-2200	Average Delay Days - Total	2.40	1	5.52	1	5.77	1.77	3.27	NA	7.00	NA	1,2,3,4,5

**PR-4-03-2200 % Missed Appointment - Customer**

PR-4-03-2200	% Missed Appt. - Customer - Due to Late Order Conf.	25.25	0	0	0	0	0	0	0	40	0	11,11
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**PR-5 - Facility Missed Orders**

PR-5-01-2200	% Missed Appointment - Verizon - Facilities	1.76	0	1.46	0	2.37	0	1.26	0	0.86	0	1,2,4,5
<b>PR-6 - Installation Quality</b>												
PR-6-01-2200	% Installation Troubles reported within 30 Days	0.51	7.5	0.65	0	1.62	1.32	1.41	0	3.02	0	

**PR-6-03-2200 FOR TROK/CPE**

PR-6-03-2200		2.5	1.82	2.63	4.17	0	0	0	0	0	0	
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## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PR-8 - Open Orders in a Hold Status												
PR-8-01-2200	Open Orders in a Hold Status > 30 Days	1.05	0	0.76	0	0.66	0	1.45	0	0.46	0	
PR-8-02-2200	Open Orders in a Hold Status > 90 Days	0.19	0	0.17	0	0.22	0	0.01	0	0	0	
Resale (Maintenance) - POTS/Special Services												
POTS - Maintenance												
MR-2 - Trouble Report Rate												
MR-2-02-2100	Network Trouble Report Rate - Loop	1.04	0.46	1.05	0.44	1.06	0.51	1.03	0.41	0.84	0.32	
MR-2-03-2100	Network Trouble Report Rate - Central Office	0.07	0.03	0.07	0.03	0.08	0.03	0.07	0.02	0.06	0.01	
MR-2-04-2100	% Subsequent Reports		1.54		1.67		1.95		5.13		0.28	
MR-2-05-2100	% CPE/TOK/FOK Trouble Report Rate		0.38		0.39		0.43		0.37		0.33	
MR-3 - Missed Repair Appointments												
MR-3-01-2110	% Missed Repair Appointment - Loop Bus.	22.47	25.2	25.52	19.3	21.44	28.81	25.38	26.67	23.5	17.39	
MR-3-01-2120	% Missed Repair Appointment - Loop Res.	12.95	3.65	17.25	5.94	13.51	7.44	13.23	5.69	13.61	7.14	
MR-3-02-2110	% Missed Repair Appointment - Central Office Bus.	12.86	15.79	17.71	10.53	10.7	5.88	12.25	9.09	9.01	0	5
MR-3-02-2120	% Missed Repair Appointment - Central Office Res.	10.16	5	14.26	0	8.9	8.33	6.33	0	8.01	40	5
MR-3-03-2100	% CPE/TOK/FOK - Missed Appointment		5.91		6.9		5.01		4.63		4.47	
MR-4 - Trouble Duration Intervals												
MR-4-01-2100	Mean Time To Repair - Total	18.13	12.31	24.36	16.94	21.56	16.29	25.75	20.15	26.18	19	
MR-4-02-2110	Mean Time To Repair - Loop Trouble - Bus.	12.18	14.72	12.56	11.31	11.2	10.56	14.52	15.31	14.99	16.01	
MR-4-02-2120	Mean Time To Repair - Loop Trouble - Res.	19.42	11.89	26.63	19.15	24.13	18.37	28.2	22.39	28.79	19.85	
MR-4-03-2110	Mean Time To Repair - Central Office Trouble - Bus.	7.32	4.37	9.1	7.04	6.12	2.92	6.18	6.32	5.68	5.82	5
MR-4-03-2120	Mean Time To Repair - Central Office Trouble - Res.	11.97	13.36	16.07	14.44	11.13	12.53	13.33	19.2	14.22	34.09	5
MR-4-04-2100	% Cleared (all troubles) within 24 Hours	76.82	88.56	65.7	76.84	68.87	80.13	58.61	68.4	65.29	75.14	
MR-4-06-2100	% Out of Service > 4 Hours	71.7	55.04	77.09	68.37	74.39	69.01	79.74	76.58	75.6	68.38	
MR-4-07-2100	% Out of Service > 12 Hours	54.3	42.23	61.7	50.12	59.83	55.58	65.56	62.11	59.45	53.31	
MR-5 - Repeat Trouble Reports												
MR-5-01-2100	% Repeat Reports within 30 Days	14.52	8.67	14.53	10.17	13.93	13.91	13.97	11.44	12.93	10.77	
2-Wire Digital Services - Maintenance												
MR-2 - Trouble Report Rate												
MR-2-02-2341	Network Trouble Report Rate - Loop	0.31	0.23	0.32	0.34	0.31	0	0.23	0.12	0.25	0	

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Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
MR-2-03-2341	Network Trouble Report Rate - Central Office	0.24	0	0.28	0.11	0.25	0	0.21	0.12	0.25	0.23	
MR-2-04-2341	% Subsequent Reports		33.33		0		NA		0		0	1,2,4,5
MR-2-05-2341	% CPE/TOK/FOK Trouble Report Rate		0.46		0		0.7		0.12		0.35	
<b>MR-3 - Missed Repair Appointments</b>												
MR-3-01-2341	% Missed Repair Appointment - Loop	49.7	50	44.12	33.33	47.56	NA	42.98	0	36.67	NA	1,2,4
MR-3-02-2341	% Missed Repair Appointment - Central Office	20.8	NA	23.45	100	39.85	NA	21.62	0	21.01	0	2,4,5
MR-3-03-2341	% CPE/TOK/FOK - Missed Appointment		50		NA		16.67		0		33.33	1,3,4,5
<b>MR-4 - Trouble Duration Intervals</b>												
MR-4-01-2341	Mean Time To Repair - Total	17.82	24.16	17.71	23.43	22.96	NA	16.49	24.69	20.32	0.73	1,2,4,5
MR-4-02-2341	Mean Time To Repair - Loop Trouble	22.76	24.16	23.9	22.63	22.81	NA	21.36	29.97	24.68	NA	1,2,4
MR-4-03-2341	Mean Time To Repair - Central Office Trouble	11.31	NA	10.45	25.85	23.14	NA	11.19	19.42	15.92	0.73	2,4,5
MR-4-04-2341	% Cleared (all troubles) within 24 Hours	77.59	50	78.1	50	75.42	NA	81.03	50	77.82	100	1,2,4,5
MR-4-07-2341	% Out of Service > 12 Hours	42.94	NA	45.61	66.67	53.85	NA	50	100	56.15	NA	2,4
MR-4-08-2341	% Out of Service > 24 Hours	17.65	NA	26.32	33.33	23.63	NA	20.97	50	28.46	NA	2,4
<b>MR-5 - Repeat Trouble Reports</b>												
MR-5-01-2341	% Repeat Reports within 30 Days	15.86	0	14.29	0	15.15	NA	12.5	0	15.06	50	1,2,4,5
<b>Special Services - Maintenance</b>												
<b>MR-2 - Trouble Report Rate</b>												
MR-2-01-2200	Network Trouble Report Rate	0.55	0.55	0.53	0.32	0.58	0.34	0.47	0.2	0.41	0.64	
MR-2-05-2200	% CPE/TOK/FOK Trouble Report Rate		0.6		0.46		0.68		0.74		0.3	
<b>MR-4 - Trouble Duration Intervals</b>												
MR-4-01-2216	Mean Time To Repair - Total - Non DS0 & DS0	5.14	4.18	6.04	2.52	5.46	3.3	6.33	5.84	5.92	6.81	1,2,3,4
MR-4-01-2217	Mean Time To Repair - Total - DS1 & DS3	5.24	3.59	4.53	3.7	4.62	5.61	6.69	8.02	4.34	1.13	1,2,3,4,5
MR-4-04-2216	% Cleared (all troubles) within 24 Hours - Non DS0 & DS0	99.3	100	97.76	100	99.35	100	98.82	100	97.58	100	1,2,3,4
MR-4-04-2217	% Cleared (all troubles) within 24 Hours - DS1 & DS3	98.15	100	99.41	100	99.29	100	98.06	100	100	100	1,2,3,4,5
MR-4-06-2216	% Out of Service > 4 Hours - Non DS0 & DS0	49.41	42.86	53.37	40	53.28	40	54.73	33.33	49.83	70	1,2,3,4
MR-4-06-2217	% Out of Service > 4 Hours - DS1 & DS3	48.15	40	42.01	50	40.71	100	51.96	100	39.13	0	1,2,3,4,5
MR-4-08-2216	% Out of Service > 24 Hours - Non DS0 & DS0	0.71	0	2.24	0	0.66	0	1.18	0	2.42	0	1,2,3,4
MR-4-08-2217	% Out of Service > 24 Hours - DS1 & DS3	1.85	0	0.59	0	0.71	0	1.96	0	0	0	1,2,3,4,5
<b>MR-5 - Repeat Trouble Reports</b>												
MR-5-01-2200	% Repeat Reports within 30 Days	16.47	16.67	12.43	28.57	15.47	0	14.25	25	15.49	23.08	2,3,4

## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
UNBUNDLED NETWORK ELEMENTS (UNEs)												
UNE (Ordering) - POTS/Special Services												
Platform												
OR-1 - Order Confirmation Timeliness												
OR-1-02-3143	% On Time LSRC - Flow Through		96		94.02		97.25		95.96		97.7	
OR-1-04-3143	% On Time LSRC/ASRC - No Facility Check		96.61		94.5		91.69		95.52		94.4	
OR-1-06-3143	% On Time LSRC/ASRC Facility Check		99.25		93.75		96.09		97.09		96.71	
OR-2 - Reject Timeliness												
OR-2-02-3143	% On Time LSR Reject - Flow Through		97.98		95.3		93.86		97.81		97.84	
OR-2-04-3143	% On Time LSR/ASR Reject - No Facility Check		99.61		97.37		99.09		99.15		98.4	
OR-2-06-3143	% On Time LSR/ASR Reject Facility Check		100		93.02		97.83		100		95.83	
OR-6 - Order Accuracy												
OR-6-01-3143	% Service Order Accuracy		95.6		93.93		95.02		95.99		94.35	
OR-6-03-3143	% Accuracy - LSRC		0		0.05		0		0.17		0.05	
OR-7 - Order Completeness												
OR-7-01-3143	% Order Confirmation/Rejects sent within 3 Business Days		99.61		99.51		99.78		99.91		99.27	
Loop/Pre-qualified Complex/LNP												
OR-1 - Order Confirmation Timeliness												
OR-1-02-3331	% On Time LSRC - Flow Through		98.9		97.73		97.72		98.98		96.97	
OR-1-04-3331	% On Time LSRC/ASRC - No Facility Check		98.03		97.73		97.28		97.65		97.11	
OR-1-06-3331	% On Time LSRC/ASRC Facility Check		98.85		98.9		98.7		97.59		99.03	
OR-2 - Reject Timeliness												
OR-2-02-3331	% On Time LSR Reject - Flow Through		99.45		96.88		98.19		98.46		99.11	
OR-2-04-3331	% On Time LSR/ASR Reject - No Facility Check		99.28		99.49		99.07		99.3		98.05	
OR-2-06-3331	% On Time LSR/ASR Reject Facility Check		99.24		99.48		100		99.52		99.22	
OR-6 - Order Accuracy												
OR-6-01-3331	% Service Order Accuracy		98.69		98.65		98.73		99.59		97.86	
OR-6-03-3331	% Accuracy - LSRC		0.01		0.05		0.03		0.07		0	
OR-7 - Order Completeness												
OR-7-01-3331	% Order Confirmation/Rejects sent within 3 Business Days		99.79		99.68		99.65		99.75		99.78	

## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
2 Wire Digital Services												
OR-1 - Order Confirmation Timeliness- Requiring Loop Qualification												
OR-1-04-3341	% On Time LSRC/ASRC - No Facility Check		98		100		97.44		100		94.12	
OR-1-06-3341	% On Time LSRC/ASRC Facility Check		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness - Requiring Loop Qualification												
OR-2-04-3341	% On Time LSR/ASR Reject - No Facility Check		100		100		100		100		100	5
OR-2-06-3341	% On Time LSR/ASR Reject Facility Check		NA		NA		NA		NA		NA	
2 Wire xDSL Loops												
OR-1 - Order Confirmation Timeliness - Requiring Loop Qualification												
OR-1-04-3342	% On Time LSRC/ASRC - No Facility Check		100		98.44		97.48		93.33		97.53	
OR-1-06-3342	% On Time LSRC/ASRC - Facility Check		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness - Requiring Loop Qualification												
OR-2-04-3342	% On Time LSR/ASR Reject - No Facility Check		100		100		100		100		100	
OR-2-06-3342	% On Time LSR/ASR Reject Facility Check		NA		NA		NA		NA		NA	
2 Wire xDSL Line Sharing & Line Splitting												
OR-1 - Order Confirmation Timeliness - Requiring Loop Qualification												
OR-1-04-3340	% On Time LSRC/ASRC - No Facility Check		100		100		100		98.31		100	
OR-1-06-3340	% On Time LSRC/ASRC - Facility Check		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness - Requiring Loop Qualification												
OR-2-04-3340	% On Time LSR/ASR Reject - No Facility Check		100		100		100		100		100	3
OR-2-06-3340	% On Time LSR/ASR Reject Facility Check		NA		NA		NA		NA		NA	
POTS / Special Services - Aggregate												
OR-3 - Percent Rejects (ASRs + LSRs)												
OR-3-01-3000	% Rejects		22.12		22.07		21.3		20.57		21.8	
OR-3 - Percent Rejects												
OR-3-01-3000	% Rejects		22.12		22.07		21.3		20.57		21.8	
OR-4 - Timeliness of Completion Notification												
OR-4-17-3000	% Billing Completion Notifiers sent within two (2) Business Days		99.44		98.81		99.58		98.52		99.74	
OR-5 - Percent Flow-Through												
OR-5-01-3000	% Flow Through - Total		73.8		82.08		85.51		83.82		86.63	
OR-5-03-3000	% Flow Through Achieved		93.87		95.36		96.39		96.69		96.99	

## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
Special Services - Electronically Submitted												
OR-1 - Order Confirmation Timeliness (ASRs + LSRs)												
OR-1-04-3210	% On Time LSRC/ASRC - No Facility Check DS0		NA		NA		NA		NA		NA	
OR-1-06-3210	% On Time LSRC/ASRC Facility Check DS0		NA		NA		NA		NA		NA	
OR-1-06-3211	% On Time LSRC/ASRC Facility Check DS1		78.24		90		96.43		90.85		94.57	
OR-1-06-3213	% On Time LSRC/ASRC Facility Check DS3		100		100		100		100		100	1,2,3,4,5
OR-1-06-3214	% On Time LSRC/ASRC Facility Check (Non DS0, Non DS1 & Non DS3)		NA		100		NA		NA		NA	2
OR-1-08-3210	% On Time LSRC < 6 Lines -DS0 - Fax		NA		NA		NA		NA		NA	
OR-1-10-3210	% On Time LSRC >= 6 Lines -DS0 - Fax				NA		NA		NA		NA	
OR-1-10-3211	% On Time LSRC >= 6 Lines -DS1 - Fax		NA		NA		NA		NA		NA	
OR-1-10-3213	% On Time LSRC >= 6 Lines -DS3 - Fax		NA		NA		NA		NA		NA	
<del>OR-1-10-3214</del>	% On Time LSRC >= 6 Lines - Non DS0, DS1, DS3 - Fax		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness (ASRs + LSRs)												
OR-2-04-3200	% On Time LSR/ASR Reject - No Facility Check		93.75		84.62		80		100		100	3,4
OR-2-06-3200	% On Time LSR/ASR Reject Facility Check		96		89.8		90.48		93.75		100	
OR-2-08-3200	% On Time LSR Reject < 6 Lines - Fax		75		100		0		NA		NA	1,2,3
OR-2-10-3200	% On Time LSR Reject >=6 Lines - Fax		NA		NA		NA		NA		NA	
Special Services - FAX/MAIL Submitted												
OR-1 - Order Confirmation Timeliness												
OR-1-08-3210	% On Time LSRC < 6 Lines -DS0 - Fax		NA		NA		NA		NA		NA	
OR-1-10-3210	% On Time LSRC >= 6 Lines -DS0 - Fax				NA		NA		NA		NA	
OR-1-10-3211	% On Time LSRC >= 6 Lines -DS1 - Fax		NA		NA		NA		NA		NA	
OR-1-10-3213	% On Time LSRC >= 6 Lines -DS3 - Fax		NA		NA		NA		NA		NA	
OR-1-10-3214	% On Time LSRC >= 6 Lines - Non DS0, DS1, DS3 - Fax		NA		NA		NA		NA		NA	
OR-2 - Reject Timeliness												
OR-2-08-3200	% On Time LSR Reject < 6 Lines - Fax		75		100		0		NA		NA	1,2,3
OR-2-10-3200	% On Time LSR Reject >=6 Lines - Fax		NA		NA		NA		NA		NA	
UNE (Provisioning) - POTS/Special Services												
POTS - Provisioning												
PR-4 - Missed Appointments												
PR-4-02-3100	Average Delay Days - Total	2.8	5.82	3.13	3	2.93	2.2	2.7	2.42	3.95	2.48	

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Number	Name	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	NOTES
PR-4-03-3100	% Missed Appt. - Customer		4.09		1.76		1.03		1.46		1.54	
PR-4-04-3113	% Missed Appt. - Verizon - Dispatch - Loop New	10.92	0.8	11.53	0.85	9.5	0.26	10.76	2.18	10.01	5.02	
PR-4-04-3140	% Missed Appt. - Verizon - Dispatch - Platform	10.92	0	11.53	0	9.5	0.73	10.76	1.65	10.01	4.1	
PR-4-05-3140	% Missed Appt. - Verizon - No Dispatch - Platform	1.31	0.07	0.56	0.03	0.55	0.03	0.95	0.01	1.96	0.05	
PR-4-07-3540	% On Time Performance - LNP Only		98.72		98.9		98.92		98.87		97.45	
<b>PR-5 - Facility Missed Orders</b>												
PR-5-01-3112	% Missed Appointment - Verizon - Facilities -	1.79	0.51	1.71	0.74	1.56	0.13	1.6	0.47	1.53	1.58	
<b>PR-5-01-3140</b>												
	% Missed Appointment - verizon - racunnes -	1.79	0	1.71	0	1.56	0.73	1.6	0.41	1.53	0.75	
<b>PR-6 - Installation Quality</b>												
PR-6-01-3112	% Installation Troubles reported within 30 Days - Loop	3.79	3.02	3.61	3.98	3.87	5.52	3.69	4.83	2.89	3.88	
PR-6-01-3121	% Installation Troubles reported within 30 Days - Platform	3.79	0.32	3.61	0.68	3.87	0.89	3.69	1.29	2.89	0.81	
PR-6-02-3520	% Installation Troubles reported within 7 Days - Hot Cut Loop		0.8		0.77		1.21		1.03		0.36	
PR-6-03-3112	% Installation Troubles reported within 30 Days - FOK/TOK/CPE - Loop		3.84		4.5		4.62		3.99		4.89	
PR-6-03-3121	% Inst. Troubles reported within 30 Days - FOK/TOK/CPE - Platform		0.56		0.96		1		1.51		0.88	
<b>PR-8 - Open Orders in a Hold Status</b>												
PR-8-01-3100	Open Orders in a Hold Status > 30 Days	0.04	0	0.03	0	0.03	0	0.04	0	0.02	0	
PR-8-02-3100	Open Orders in a Hold Status > 90 Days	0.02	0	0.02	0	0.02	0	0.02	0	0.01	0	
<b>Hot Cuts</b>												
<b>PR-9 - Hot Cut Loops</b>												
PR-9-01-3520	% On Time Performance - Hot Cut		98.13		98.44		98.39		96.25		97.44	
PR-9-02-3520	% Early Cuts - Lines		0.04		0		0		0.52		0	
PR-9-08-3520	Average Duration of Service Interruption		7.94		11.61		6.95		17.2		12.45	4.5
<b>POTS &amp; Complex Aggregate</b>												
<b>2-Wire Digital Services</b>												
<b>PR-4 - Missed Appointments</b>												
PR-4-02-3341	Average Delay Days - Total	6.35	3	4.62	2.29	6.02	2.13	5.09	2.1	7.11	2	1.2,3

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VERIZON FURNISHES INFORMATION IN ACCORDANCE WITH SECTION 219 OF THE COMMUNICATIONS ACT OF 1934

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PR-4-03-3341	% Missed Appointment - Customer		4.72		6.86		4.65		8.42		10.28	
PR-4-04-3341	% Missed Appointment - Verizon - Dispatch	6.94	2.04	12.3	3.23	13.44	3.64	10.55	2.5	14.84	5.26	
PR-4-05-3341	% Missed Appointment - Verizon - No Dispatch	1.32	0	0.55	0	0.84	0	0.67	0	0.64	0	1,2,3,4,5
<b>PR-5 - Facility Missed Orders</b>												
PR-5-01-3341	% Missed Appointment - Verizon Facilities	1.67	1.94	1.16	3.96		1.66	1.07	8.79	0.35	6.8	
<b>PR-6 - Installation Quality</b>												
PR-6-01-3341	% Install, Troubles Reported within 30 Days	6.16	6.54	5.72	3.74	6.05	7.75	5.93	2.06	5.76	5.45	
PR-6-03-3341	% Install, Troubles Reported within 30 Days - FOL/TOL/CPE		6.54		15.89		5.43		5.15		5.45	
<b>PR-8 - Open Orders in a Hold Status</b>												
PR-8-01-3341	Open Orders in a Hold Status > 30 Days	0.14	0	0	0	0.33	0	0.59	0	0.19	0	
PR-8-02-3341	Open Orders in a Hold Status > 90 Days	0.07	0	0	0	0.08	0	0	0	0	0	
<b>2-Wire xDSL Loops</b>												
<b>PR-4 - Missed Appointments</b>												
PR-4-02-3342	Average Delay Days - Total	7.1	2.44	5.42	1.17	6.13	2	3.73	1.55	6.5	2.58	
PR-4-03-3342	% Missed Appointment - Customer		5.46		5.29		7.32		7.83		9.57	
PR-4-04-3342	% Missed Appointment - Verizon - Dispatch		0.81		1.24		0.55		2.2		1.82	
PR-4-14-3342	% Completed On Time [With Serial Number]		98.43		98.69		98.64		98.75		98.85	
<b>PR-5 - Facility Missed Orders</b>												
PR-5-01-3342	% Missed Appointment - Verizon Facilities	1.08	1.56	4.67	2.37	3.45	3.13	1.95	1.24	2.18	1.76	
<b>PR-6 - Installation Quality</b>												
PR-6-01-3342	% Install, Troubles Reported within 30 Days	6.16	4.71	5.72	6.13	6.05	3.78	5.93	5.11	5.76	7.41	
PR-6-03-3342	% Install, Troubles Reported within 30 Days - FOL/TOL/CPE		6.95		6.69		7.3		9.01		8.47	
<b>PR-8 - Open Orders in a Hold Status</b>												
PR-8-01-3342	Open Orders in a Hold Status > 30 Days	0.99	0	0.79	0	0.73	0	1.59	0	0.61	0	
PR-8-02-3342	Open Orders in a Hold Status > 90 Days	0.12	0	0.11	0	0.18	0	0.8	0	0	0	
<b>2-Wire xDSL Line Sharing</b>												
<b>PR-4 - Missed Appointments</b>												
PR-4-02-3343	Average Delay Days - Total	1.11	1	1.17	3	1.61	1.5	2.37	1.33	1.88	1.6	1,2,3,4,5
PR-4-03-3343	% Missed Appointment - Customer		3.24		1.08		1.06		4.23		3.68	
PR-4-04-3343	% Missed Appointment - Verizon - Dispatch	2.26	1.27	5.36	1.06	3.34	1.12	5.45	1.02	4.79	0	
PR-4-05-3343	% Missed Appointment - Verizon - No Dispatch	1.61	0	6.64	0.27	0.95	0	1.62	0	1.51	1.15	

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## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
PR-5 - Facility Missed Orders												
PR-5-01-3343	% Missed Appointment - Verizon Facilities	1.08	1.25	4.67	1.03	3.45	1.04	1.95	4.72	2.18	1.69	
PR-6 - Installation Quality												
PR-6-01-3343	% Install. Troubles Reported within 30 Days	0.96	1.18	0.84	2.38	1.61	2.29	1.09	0.88	0.99	1.47	
PR-6-03-3343	% Install. Troubles Reported within 30 Days - FOK/TOK/CPE		9.12		5.83		7.23		7.76		7.6	
PR-8 - Open Orders in a Hold Status												
PR-8-01-3343	Open Orders in a Hold Status > 30 Days	0	0	0	0	0	0	0	0	0	0	
PR-8-02-3343	Open Orders in a Hold Status > 90 Days	0	0	0	0	0	0	0	0	0	0	
2-Wire xDSL Line Splitting												
PR-4 - Missed Appointments												
PR-4-03-3345	% Missed Appointment -Customer		NA		NA		NA		NA		NA	
PR-4-04-3345	% Missed Appointment - Verizon - Dispatch	2.26	NA	5.36	NA	3.34	NA	5.45	NA	4.79	NA	
PR-4-05-3345	% Missed Appointment - Verizon - No Dispatch	1.61	NA	6.64	NA	0.95	NA	1.62	NA	1.51	NA	
PR-5 - Facility Missed Orders												
PR-5-01-3345	% Missed Appointment - Verizon Facilities	1.08	NA	4.67	NA	3.45	NA	1.95	NA	2.18	NA	
PR-5-02-3345	% Orders Held for Facilities > 15 Days	0	NA	0	NA	0	NA	0	NA	0	NA	
PR-6 - Installation Quality												
PR-6-01-3345	% Install. Troubles Reported within 30 Days	0.96	NA	0.84	NA	1.61	NA	1.09	0	0.99	0	
PR-6-03-3345	% Install. Troubles Reported within 30 Days - FOK/TOK/CPE		NA		NA		NA		0		0	
Special Services - Provisioning												
PR-4 - Missed Appointments												
PR-4-01-3210	% Missed Appointment - Verizon - DS0	7.2	NA	21.68	NA	9.72	0	12.75	0	23.47	NA	3,4
PR-4-01-3211	% Missed Appointment - Verizon - DS1	13.46	4.32	11.49	0	16.67	0.03	11.63	0.03	9.33	0.05	
PR-4-01-3213	% Missed Appointment - Verizon - DS3	0	NA	NA	0	NA	NA	NA	NA	0	0	2,5
PR-4-01-3214	% Missed Appointment - Verizon - Special Other	3.23	NA	9.52	NA	7.07	NA	24.69	NA	0	NA	
PR-4-01-3510	% Missed Appointment - Verizon - Total - EEL	13.46	NA	11.49	NA	16.67	0	11.63	0	9.33	0	3
PR-4-01-3530	% Missed Appointment - Verizon - Total- IOF	0	28.57	NA	0	NA	0	NA	0	0	0	1,2,3,4,5
PR-4-02-3200	Average Delay Days - Total	6.69	5	5.56	NA	5.77	1.25	3.67	4.33	6.88	2.6	1,3,4,5
PR-4-02-3510	Average Delay Days - Total - EEL	5.14	NA	7.95	NA	5.79	NA	3.8	NA	6.21	NA	
PR-4-02-3530	Average Delay Days - Total - IOF	NA	7.5	NA	NA	NA	NA	NA	NA	NA	NA	1
PR-4-03-3200	% Missed Appointment - Customer		10.6		2.96		6.25		3.03		2.68	
PR-4-03-3510	% Missed Appointment - Customer - EEL		NA		NA		0		0		4.17	3



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## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August VZ CLEC	September VZ CLEC	October CLEC	November VZ CLEC	December VZ CLEC	Notes
PR-4-03-3530	% Missed Appointment - Customer - IOF	14.29	0	100			5
PR-4-07-3540	% On Time Performance - LNP Only	98.72	98.9	98.92	98.87	97.45	
PR-4-08-3200	% Missed Appt. - Customer - Late Order Conf.		2.84	0.74	0	0	
PR-5 - Facility	Missed Orders						
PR-5-01-3200	% Missed Appointment - Verizon -Facilities	1.76 2.74	1.46 0	2.37 1.54	1.26 0.95	0.86 2.21	
PR-6 - Installation	Quality						
PR-6-01-3200	% Installation Troubles reported within 30 Days	0.51 6.21	0.65 4.61	1.62 5.1	1.41 4.83	3.02 4.29	
PR-6-03-3200	% Inst. Troubles reported w/ in 30 Days - FOK/TOK/CPE		4.35 4.61	5.73	4.83	2.14	
PR-8 - Open Orders	in a Hold Status						
PR-8-01-3200	Open Orders in a Hold Status > 30 Days	1.05 0.12	0.76 0	0.66 0.01	1.45 0	0.46 0	
PR-8-02-3200	Open Orders in a Hold Status > 90 Days	0.19 0.12	0.17 0	0.22 0.01	0.01 0	0 0	
UNE (Maintenance)	.POTS/Special Services						
MR-2 - Trouble Report	Rate						
MR-2-02-3550	Network Trouble Report Rate - Loop	1.04 0.48	1.05 0.57	1.06 0.58	1.03		
MR-2-03-3550	Network Trouble Report Rate - Central Office	0.07 0.04	0.07 0.04	0.08 0.03	0.07	0.03 0.06 0.02	
MR-2-05-3550	% CPE/TOK/FOK Trouble Report Rate		0.5 0.58	0.54			
MR-3 - Missed Repair	Appointments						
MR-3-01-3550	% Missed Repair Appointment - Loop	14.17 2.98	18.24 5.86	14.53 2.69	14.64 5.52	14.75 9.55	
MR-3-02-3550	% Missed Repair Appointment - Central Office	10.95 4.94	15.13 2.56	9.39 10	8.07 13.16	8.25 11.11	
MR-3-03-3550	% CPE/TOK/FOK - Missed Appointment		1.78 5.07	2.18	4.05	4.39	
MR-4 - Trouble Duration	Intervals						
MR-4-01-3550	Mean Time To Repair - Total	18.13 12.64	24.36 14.3	21.56 12.32	25.75 14.56	26.18 26.25	
MR-4-02-3550	Mean Time To Repair - Loop Trouble	18.6 12.51	25.02 14.49	22.49 12.34	26.66 14.57	27.27 26.46	
MR-4-03-3550	Mean Time To Repair - Central Office Trouble	10.72 14.07	14.33 10.31	9.81 11.78	11.31 13.71	12.09 13.52	
MR-4-04-3550	% Cleared (all troubles) within 24 Hours	76.82 93.71	65.7 87.44	68.87 92.03	58.61 86.73	65.29 80.76	
MR-4-07-3550	% Out of Service > 12 Hours	54.3 50.7	61.7 53	59.83 47.89	65.56 53.68	59.45 55.45	
MR-4-08-3550	% Out of Service > 24 Hours	18.05 6.15	30.31 12.02	25.62 7.32	35.7 13.45	32.22 21.31	
MR-5 - Repeat Trouble	Reports						
MR-5-01-3550	% Repeat Reports within 30 Days	14.52 13.69	14.53 14.73	13.93 14.45	13.97 12.97	12.93 15.94	
Maintenance - POTS	Platform						
MR-2 - Trouble Report	Rate						
MR-2-02-3140	Network Trouble Report Rate -Platform	1.04 0.58		0.69	1.03 0.81	0.84 0.65	
MR-2-03-3140	Network Trouble Report Rate - Central Office	0.07 0.08	0.07 0.07	0.08 0.23	0.07 0.04	0.06 0.07	

## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
MR-2-04-3140	% Subsequent Reports		3.95		2.03		2.4		2.41		2.36	
MR-2-05-3140	% CPE/TOK/FOK Trouble Report Rate		0.78		0.89		1.02		0.96		0.72	
<b>MR-3 - Missed Repair Appointments</b>												
MR-3-01-3144	% Missed Repair Appointment - Platform Bus.	22.47	21.79	25.52	14.81	21.44	18.52	25.38	17.75	23.5	24.55	
MR-3-01-3145	% Missed Repair Appointment - Platform Res.	12.95	9.72	17.25	6.42	13.51	9.05	13.23	5.14	13.61	11.2	
MR-3-02-3144	% Missed Repair Appointment - Central Office Bus.	12.86	25	17.71	35.29	10.7	6.52	12.25	15.39	9.01	0	
MR-3-02-3145	% Missed Repair Appointment - Central Office Res.	10.16	25	14.26	14.29	8.9	2.63	6.33	7.14	8.01	5.56	1,2
MR-3-03-3140	% CPE/TOK/FOK - Missed Appointment - Platform		10.5		9.06		6.29		4.36		4.65	
<b>MR-4 - Trouble Duration Intervals</b>												
MR-4-01-3140	Mean Time To Repair - Total	18.13	12.84	24.36	17.99	21.56	14.74	25.75	22.21	26.18	23.57	
MR-4-04-3140	% Cleared (all troubles) within 24 Hours	76.82	86.47	65.7	78.84	68.87	84.25	58.61	66.41	65.29	70.02	
MR-4-06-3140	% Out of Service > 4 Hours	71.7	59.46	77.09	66.3	74.39	60.28	79.74	79.85	75.6	69.29	
MR-4-07-3140	% Out of Service > 12 Hours	54.3	43.24	61.7	53.8	59.83	45.35	65.56	65.17	59.45	57	
MR-4-08-3144	% Out of Service > 24 Hours - Bus.	8.29	8.33	11.75	9.89	8.18	3.1	14.66	14.6	13.59	8.99	
MR-4-08-3145	% Out of Service > 24 Hours - Res.	19.43	9.8	33.06	33.33	28.5	16.37	38.72	39.62	34.79	31.76	
<b>MR-5 - Repeat Trouble Reports</b>												
MR-5-01-3140	% Repeat Reports within 30 Days	14.52	15.29	14.53	15.35	13.93	9.41	13.97	13.28	12.93	11.55	
<b>2-Wire Digital Services - Maintenance</b>												
<b>MR-2 - Trouble Report Rate</b>												
MR-2-02-3341	Network Trouble Report Rate - Loop	1.03	0.49	1.03	0.33	1.04	0.37	1.01	0.43	0.83	0.47	
MR-2-03-3341	Network Trouble Report Rate - Central Office	0.07	0.05	0.07	0.09	0.09	0.11	1.01	0.06	0.83	0.04	
MR-2-04-3341	% Subsequent Reports		0		0		0		0		0	
<b>MR-3 - Missed Repair Appointments</b>												
MR-3-01-3341	% Missed Repair Appointment - Loop	14.36	3.7	18.38	0	14.7	10	14.75	8.7	14.86	0	
MR-3-02-3341	% Missed Repair Appointment - Central Office	11.53	0	15.68	0	10.95	16.67	8.82	0	9.02	100	1,2,3,4,5
<b>MR-4 - Trouble Duration Intervals</b>												
MR-4-01-3341	Mean Time To Repair - Total	18.13	16.91	24.3	15.3	21.57	16.48	25.68	20.53	26.13	19.23	
MR-4-02-3341	Mean Time To Repair - Loop Trouble	18.62	18.53	25.02	14.66	22.49	16.38	26.64	20.97	27.25	16.12	
MR-4-03-3341	Mean Time To Repair - Central Office Trouble	10.75	2.34	14.07	17.58	10.49	16.79	11.3	17.14	12.32	58.09	1,2,3,4,5
MR-4-07-3341	% Out of Service > 12 Hours	54.2	58.33	61.55	64.29	59.76	50	65.45	65.22	59.42	61.91	
MR-4-08-3341	% Out of Service > 24 Hours	18.05	33.33	30.27	14.29	25.59	15	35.6	34.78	32.19	23.81	

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**VIRGINIA PERFORMANCE METRIC DATA**

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
MR-5 - Repeat Trouble Reports												
MR-5-01-3341	% Repeat Reports within 30 Days	14.53	20	14.52	17.39	13.94	19.23	13.96	19.23	12.95	7.41	
2-Wire xDSL Loops - Maintenance												
MR-2 - Trouble Report Rate												
MR-2-02-3342	Network Trouble Report Rate - Loop	1.03	0.31	1.03	0.3	1.04	0.25	1.01	0.26	0.83	0.23	
MR-2-03-3342	Network Trouble Report Rate - Central Office	0.07	0	0.07	0.02	0.09	0.01	1.01	0.02	0.83	0.05	
MR-3 - Missed Repair Appointments												
MR-3-01-3342	% Missed Repair Appointment - Loop	14.36	1.2	18.38	5.68	14.7	2.86	14.75	6.94	14.86	5.41	
MR-3-02-3342	% Missed Repair Appointment - Central Office	11.53	0	15.68	0	10.95	0	8.82	0	9.02	11.11	1,2,3
MR-4 - Trouble Duration Intervals												
MR-4-02-3342	Mean Time To Repair - Loop Trouble	18.62	11.09	25.02	14.51	22.49	14.47	26.64	13.34	27.25	14.16	
MR-4-03-3342	Mean Time To Repair - Central Office Trouble	10.75	2.47	14.07	6.12	10.49	4.98	11.3	8.52	12.32	16.77	1,2,3
MR-4-07-3342	% Out of Service > 12 Hours	54.2	40	61.55	45.07	59.76	50	65.45	51.52	59.42	49.32	
MR-4-08-3342	% Out of Service > 24 Hours	18.05	5.71	30.27	12.68	25.59	7.14	35.6	12.12	32.19	13.7	
MR-5 - Repeat Trouble Reports												
MR-5-01-3342	% Repeat Reports within 30 Days	14.53	11.36	14.52	12.63	13.94	13.33	13.96	13.58	12.95	10.87	
2-Wire xDSL Line Sharing - Maintenance												
MR-2-02-3343   Network Trouble Report Rate - Loop												
MR-2-03-3343	Network Trouble Report Rate - Central Office	0.05	0.04	0.05	0.16	0.06	0.15	0.05	0.05	0.06	0.1	
MR-3 - Missed Repair Appointments												
MR-3-01-3343	% Missed Repair Appointment - Loop	41.74	27.27	33.33	12.5	31.16	31.25	52.21	15.39	40	50	2
MR-3-02-3343	% Missed Repair Appointment - Central Office	7.02	0	4.84	7.69	4.48	0	18.75	0	17.65	0	1,3,4,5
MR-4 - Trouble Duration Intervals												
MR-4-02-3343	Mean Time To Repair - Loop Trouble	47.66	38.72	50.58	35.22	73.64	35.85	41.26	26.29	27.17	21.31	2
MR-4-03-3343	Mean Time To Repair - Central Office Trouble	12.18	11.12	20.31	17.88	23.86	14.63	20.21	15.65	26.28	9.74	1,3,4,5
MR-4-04-3343	% Cleared (all troubles) within 24 Hours	50	30.77	47.47	52.38	33.17	62.5	52.8	52.94	63.83	68.75	
MR-4-07-3343	% Out of Service > 12 Hours	63.89	81.82	66.67	72.22	78.74	70.59	76.76	71.43	82.18	43.75	
MR-4-08-3343	% Out of Service > 24 Hours	45.83	63.64	47.5	38.89	62.64	41.18	48.59	42.86	36.21	31.25	
MR-5 - Repeat Trouble Reports												
MR-5-01-3343	% Repeat Reports within 30 Days	26.74	38.46	34.81	33.33	33.17	29.17	35.4	47.06	37.77	56.25	

## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
2-Wire xDSL Line Splitting - Maintenance												
MR-2 - Trouble Report Rate												
MR-2-02-3345	Network Trouble Report Rate - Loop	0.18	NA	0.16	NA	0.22	NA	0.18	NA	0.17	NA	
MR-2-03-3345	Network Trouble Report Rate - Central Office	0.05	NA	0.05	NA	0.06	NA	0.05	NA	0.06	NA	
MR-2-04-3345	% Subsequent Reports	0	NA	0	NA	0	NA	0	NA	35.84	NA	
MR-2-05-3345	% CPE/TOK/FOK Trouble Report Rate	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	
MR-3 - Missed Repair Appointments												
MR-3-01-3345	% Missed Repair Appointment - Loop	41.74	NA	33.33	NA	31.16	NA	52.21	NA	40	NA	
MR-3-02-3345	% Missed Repair Appointment - Central Office	7.02	NA	4.84	NA	4.48	NA	18.75	NA	17.65	NA	
MR-3-03-3345	%CPE/TOK/FOK - Missed Appointment		NA		NA		0		NA		NA	3
MR-4 - Trouble Duration Intervals												
MR-4-02-3345	Mean Time To Repair - Loop Trouble	47.66	NA	50.58	NA	73.64	NA	41.26	NA	27.17	NA	
MR-4-03-3345	Mean Time To Repair - Central Office Trouble	12.18	NA	20.31	NA	23.86	NA	20.21	NA	26.28	NA	
MR-4-04-3345	% Cleared (all troubles) within 24 Hours	50	NA	47.47	NA	33.17	NA	52.8	NA	63.83	NA	
MR-4-07-3345	% Out of Service > 12 Hours	63.89	NA	66.67	NA	78.74	NA	76.76	NA	82.18	NA	
MR-4-08-3345	% Out of Service > 24 Hours	45.83	NA	47.5	NA	62.64	NA	48.59	NA	36.21	NA	
MR-5 - Repeat Trouble Reports												
MR-5-01-3345	% Repeat Reports within 30 Days	26.74	NA	34.81	NA	33.17	NA	35.4	NA	37.77	NA	
Special Services - Maintenance												
MR-2 - Trouble Report Rate												
MR-2-01-3200	Network Trouble Report Rate	0.55	1.74	0.53	1.69	0.58	1.31	0.47	1.37	0.41	1.33	
MR-2-05-3200	% CPE/TOK/FOK Trouble Report Rate		1.66		1.91		1.59		1.56		1.59	
MR-4 - Trouble Duration Intervals												
MR-4-04-3216	% Cleared (all troubles) within 24 Hours - Non DS0 & DS0	99.3	NA	97.76	NA	99.35	NA	98.82	NA	97.58	NA	
MR-4-04-3217	% Cleared (all troubles) within 24 Hours - DS1 & DS3	98.15	95.24	99.41	100	99.29	100	98.06	100	100	98	
MR-4-06-3216	% Out of Service > 4 Hours - Non DS0 & DS0	49.41	NA	53.37	NA	53.28	NA	54.73	NA	49.83	NA	
MR-4-06-3217	% Out of Service > 4 Hours - DS1 & DS3	48.15	54.9	42.01	56.36	40.71	53.85	51.96	62.5	39.13	61.36	
MR-4-08-3216	% Out of Service > 24 Hours - Non DS0 & DS0	0.71	NA	2.24	NA	0.66	NA	1.18	NA	2.42	NA	
MR-4-08-3217	% Out of Service > 24 Hours - DS1 & DS3	1.85	1.96	0.59	0	0.71	0	1.96	0	0	2.27	
MR-5 - Repeat Trouble Reports												
MR-5-01-3200	% Repeat Reports within 30 Days	16.47	22.22	12.43	19.67	15.47	19.15	14.25	12	15.49	14	

## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
Trunks (Aggregate) - POTS/Special Services												
ORDERING												
OR-1 • Order Confirmation Timeliness												
OR-1-12-5020	% On Time FOC (<= 192 Forecasted Trunks)						100		100		100	3,5
OR-1-12-5030	% On Time FOC (> 192 and Unforecasted Trunks and Projects)		95.93		92.31		96.33		96.12		88.73	
OR-1-13-5020	% On Time Design Layout Record (DLR)				95.83		83.33		76.92		100	
OR-1-19-5020	% On Time Resp. - Request for Inbound Augment Trunks (<= 192 Forecasted Trunks)		NA		NA		NA		NA		NA	
OR-1-19-5030	% On Time Resp. - Request for Inbound Augment Trunks (> 192 Forecasted Trunks)		NA		NA		NA		NA		NA	
OR-2 • Reject Timeliness												
OR-2-12-5000	% On Time Trunk ASR Reject (<= 192 Forecasted Trunks)		100		83.33		100		100		100	1,3,4,5
PROVISIONING												
PR-1-09-5020	Av. Interval Offered - Total (<= 192 Forecasted Trunks)	11.93	6	11.53	NA	11.57	NA	10.14	NA	12.5	NA	1
PR-1-09-5030	Av. Interval Offered - Total (> 192 & Unforecasted Trunks)	14.3	11.23	10.58	8.79	10.8	9.53	11.36	9.78	11.4	15.22	
PR-4 • Missed Appointment												
PR-4-01-5000	% Missed Appointment - Verizon - Total	0.09	0									
PR-4-02-5000	Average Delay Days - Total	9	NA		3		17		NA		50.4	3
PR-4-03-5000	% Missed Appointment - Customer		42.47		65.62		56.99		52.23		60.86	
PR-4-15-5000	% On Time Provisioning - Trunks				99.73				100		94.61	
PR-5 • Facility Missed Orders												
PR-5-01-5000	% Missed Appointment - Verizon - Facilities	0.09	0	0	0.52	0.64		0	0	0	0	
PR-5-02-5000	% Orders Held for Facilities > 15 Days	0	0	0	0	0	0.23	0	0	0	0	
PR-5-03-5000	% Orders Held for Facilities > 60 Days	0	0	0	0	0	0	0	0	0	0	
PR-6 • Installation Quality												
PR-6-01-5000	% Installation Troubles reported within 30 Days	0.09	0.01	0.06	0.04	0.08	0.02	0.09	0	0	0.03	
PR-6-03-5000	% Inst. Troubles reported within 30 Days - FOK/TOK/CPE		0.06		0.01		0.02		0		0	

**Federal Communications Commission**

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**VIRGINIA PERFORMANCE METRIC DATA**

Number	Name	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	NOTES
PR-8-01-5000	Open Orders in a Hold Status > 30 Days	U	U	U	U	U	U	U	U	U	U	
PR-8-02-5000	Open Orders in a Hold Status > 90 Days	0	0	0	0	0	0	0	0	0	0	
<b>MAINTENANCE</b>												
MR-2 - Trouble Report Rate												
MR-2-01-5000	Network Trouble Report Rate	0.03	0.01	0.02	0.01	0.02	0.01	0.02	0	0.01	0.01	
MR-4 - Trouble Duration Intervals												
MR-4-01-5000	Mean Time To Repair - Total	1.2	1.97	3.52	5.01	2.13	2.05	2.02	1.09	3.47	1.9	
MR-4-04-5000	% Cleared (all troubles) within 24 Hours	100	100	97.73	93.75	100	100	100	100	100	100	
<b>NETWORK PERFORMANCE</b>												
MR-4-06-5000	% Out of Service > 4 Hours	3.39	13.04	11.30	21.88	9.22	1.09	1.07	11.11	22.90	14.01	
MR-4-07-5000	% Out of Service > 12 Hours	0	0	2.27	6.25	2.38	0	1.92	0	3.23	0	
MR-4-08-5000	% Out of Service > 24 Hours	0	0	2.27	6.25	0	0	0	0	0	0	
MR-5 - Repeat Trouble Report Rates												
MR-5-01-5000	% Repeat Reports within 30 Days	30.51	4.35	6.82	9.38	14.29	0	9.62	11.11	16.13	3.7	
<b>INF-1 - Percent Final Trunk Group Blockage</b>												
NP-1-01-5000	% Final Trunk Groups Exceeding Blocking Standard	2.33	0	2.8	3.13	1.93	0	0	0	1.17	0	
NP-1-02-5000	% FTG Exceeding Blocking Std. (No Exceptions)	2.33	2.11	2.8	4.17	1.93	1.8	0	1.75	1.17	4.31	
<b>NP-2 Collocation Performance - New</b>												
NP-2-01-6701	% On Time Response to request for Physical Collocation		NA		100		100		NA		100	2,3,5
NP-2-02-6701	% On Time Response to Request for Virtual Collocation		NA		NA		100		NA		NA	3
NP-2-03-6701	Average Interval - Physical Collocation		NA		NA		NA		NA		NA	
NP-2-04-6701	Average Interval - Virtual Collocation		NA		24		45.5		56.5		NA	
NP-2-05-6701	% On Time - Physical Collocation		NA		NA		NA		NA		NA	
NP-2-06-6701	% On Time - Virtual Collocation		NA		100		100		100		NA	2,3,4
NP-2-07-6701	Average Delay Days - Physical Collocation		NA		NA		NA		NA		NA	
NP-2-08-6701	Average Delay Days - Virtual Collocation		NA		NA		NA		NA		NA	

## VIRGINIA PERFORMANCE METRIC DATA

Metric Number	Metric Name	August		September		October		November		December		Notes
		VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	VZ	CLEC	
NP-2 - Collocation Performance - Augment												
NP-2-01-6702	% On Time Response to Request for Physical Collocation		100		100		100		100		100	2,3
NP-2-02-6702	% On Time Response to Request for Virtual Collocation		NA		NA		100		NA		NA	3
NP-2-03-6702	Average Interval - Physical Collocation		74.22		64.73		69		30		55.14	
NP-2-03-6712	Average Interval - Physical Collocation - 45 days		NA									
NP-2-04-6702	Average Interval - Virtual Collocation		NA		26		25		80		NA	
NP-2-05-6702	% On Time - Physical Collocation		100		100		100		100		100	4,5
NP-2-05-6712	% On Time - Physical Collocation - 45 days		NA									
NP-2-06-6702	% On Time - Virtual Collocation		NA		100		100		100		NA	2,3,4
NP-2-07-6702	Average Delay Days - Physical Collocation		NA		NA		NA		NA		NA	
NP-2-08-6702	Average Delay Days - Virtual Collocation		NA		NA		NA		NA		NA	

**Abbreviations:** NA = No Activity.

UD = Under Development.

blank cell = No data provided.

VZ = Verizon retail analog. If no data was provided, the metric may have a benchmark.

**Notes:**

1 = Sample Size under 10 for August.

2 = Sample Size under 10 for September.

3 = Sample Size under 10 for October.

4 = Sample Size under 10 for November.

5 = Sample Size under 10 for December.

## Appendix F Statutory Requirements

### I. STATUTORY FRAMEWORK

1. The 1996 Act conditions BOC entry into the market for provision of in-region interLATA services on compliance with certain provisions of section 271.<sup>1</sup> BOCs must apply to the Federal Communications Commission (Commission or FCC) for authorization to provide interLATA services originating in any in-region state.<sup>2</sup> The Commission must issue a written determination on each application no later than 90 days after receiving such application.<sup>3</sup> Section 271(d)(2)(A) requires the Commission to consult with the Attorney General before making any determination approving or denying a section 271 application. The Attorney General is entitled to evaluate the application “using any standard the Attorney General considers appropriate,” and the Commission is required to “give substantial weight to the Attorney General’s evaluation.”<sup>4</sup>

2. In addition, the Commission must consult with the relevant state commission to verify that the BOC has one or more state-approved interconnection agreements with a facilities-based competitor, or a Statement of Generally Available Terms and Conditions (SGAT), and that either the agreement(s) or general statement satisfy the “competitive checklist.” Because the Act does not prescribe any standard for the consideration of a state commission’s verification under section 271(d)(2)(B), the Commission has discretion in each section 271 proceeding to determine

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<sup>1</sup> For purposes of section 271 proceedings, the Commission uses the definition of the term “Bell Operating Company” contained in 47 U.S.C. § 153(4).

<sup>2</sup> 47 U.S.C. § 271(d)(1). For purposes of section 271 proceedings, the Commission utilizes the definition of the term “in-region state” that is contained in 47 U.S.C. § 271(i)(1). Section 271(j) provides that a BOC’s in-region services include 800 service, private line service, or their equivalents that terminate in an in-region state of that BOC and that allow the called party to determine the interLATA carrier, even if such services originate out-of-region. *Id.* § 271(j). The 1996 Act defines “interLATA services” as “telecommunications between a point located in a local access and transport area and a point located outside such area.” *Id.* § 153(21). Under the 1996 Act, a “local access and transport area” (LATA) is “a contiguous geographic area (A) established before the date of enactment of the [1996 Act] by a [BOC] such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or (B) established or modified by a [BOC] after such date of enactment and approved by the Commission.” *Id.* § 153(25). LATAs were created as part of the Modification of Final Judgment’s (MFJ) “plan of reorganization.” *United States v. Western Elec. Co.*, 569 F. Supp. 1057 (D.D.C. 1983), *aff’d sub nom. California v. United States*, 464 U.S. 1013 (1983). Pursuant to the MFJ, “all [BOC] territory in the continental United States [was] divided into LATAs, generally centering upon a city or other identifiable community of interest.” *United States v. Western Elec. Co.*, 569 F. Supp. 990, 993-94 (D.D.C. 1983).

<sup>3</sup> 47 U.S.C. § 271(d)(3)

<sup>4</sup> *Id.* § 271(d)(2)(A).

<sup>5</sup> *Id.* § 271(d)(2)(B).



the amount of weight to accord the state commission's **verification**.<sup>6</sup> The Commission has held that, although it will consider carefully state determinations of fact that are supported by a detailed and extensive record, it is the FCC's role to determine whether the factual record supports the conclusion that particular requirements of section 271 have been met.'

3. Section 271 requires the Commission to make various findings before approving BOC entry. In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate, with respect to each state for which it seeks authorization, that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or 271(c)(1)(B) (Track B).<sup>8</sup> In order to obtain authorization under section 271, the BOC must also show that: (1) it has "fully implemented the competitive checklist" contained in section 271(c)(2)(B);<sup>9</sup> (2) the requested authorization will be carried out in accordance with the requirements of section 272;<sup>10</sup> and (3) the BOC's entry into the in-region interLATA market is "consistent with the public interest, convenience, and necessity." The statute specifies that, unless the Commission finds that these criteria have been satisfied, the Commission "shall not approve" the requested authorization."

<sup>6</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3962, para. 20; *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended*, CC Docket No. 97-137, 12 FCC Rcd 20543, 20559-60 (1997) (*Ameritech Michigan Order*). As the D.C. Circuit has held, "[a]lthough the Commission must consult with the state commissions, the statute does not require the Commission to give State Commissions' views any particular weight." *SBC Communications Inc. v. FCC*, 138 F.3d 410, 416 (D.C. Cir. 1998).

<sup>7</sup> *Ameritech Michigan Order*, 12 FCC Rcd at 20560; *SBC Communications v. FCC*, 138 F.3d at 416-17.

<sup>8</sup> 47 U.S.C. § 271(d)(3)(A). See Section 111, *infra*, for a complete discussion of Track A and Track B requirements.

<sup>9</sup> *Id.* §§ 271(c)(2)(B), 271(d)(3)(A)(i)

<sup>10</sup> *Id.* § 272; see *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149. First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996) (*Non-Accounting Safeguards Order*), *recon.* Order on Reconsideration, 12 FCC Rcd 2297 (1997), *review pending sub nom. SBC Communications v. FCC*, No. 97-1118 (D.C. Cir., filed Mar. 6, 1997) (held in abeyance pursuant to court order filed May 7, 1997). *remanded in part sub nom., Bell Atlantic Telephone Companies v. FCC*, No. 97-1067 (D.C. Cir., filed Mar. 31, 1997), *on remand*, Second Order on Reconsideration, FCC 97-222 (rel. June 24, 1997). *petition for review denied sub nom. Bell Atlantic Telephone Companies v. FCC*, 113 F.3d 1044 (D.C. Cir. 1997); *Implementation of the Telecommunications Act of 1996; Accounting Safeguards Under the Telecommunications Act of 1996*, Report and Order, 11 FCC Rcd 17539 (1996).

<sup>11</sup> 47 U.S.C. § 271(d)(3)(C).

<sup>12</sup> *Id.* § 271(d)(3); see *SBC Communications, Inc. v. FCC*, 138 F.3d at 416

## 11. PROCEDURAL AND ANALYTICAL FRAMEWORK

4. To determine whether a BOC applicant has met the prerequisites for entry into the long distance market, the Commission evaluates its compliance with the competitive checklist, as developed in the FCC's local competition rules and orders in effect at the time the application was filed. Despite the comprehensiveness of these rules, there will inevitably be, in any section 271 proceeding, disputes over an incumbent LEC's precise obligations to its competitors that FCC rules have not addressed and that do not involve *per se* violations of self-executing requirements of the Act. As explained in prior orders, the section 271 process simply could not function as Congress intended if the Commission were required to resolve all such disputes as a precondition to granting a section 271 application.<sup>13</sup> In the context of section 271's adjudicatory framework, the Commission has established certain procedural rules governing BOC section 271 applications.<sup>14</sup> The Commission has explained in prior orders the procedural rules it has developed to facilitate the review process.<sup>15</sup> Here we describe how the Commission considers the evidence of compliance that the BOC presents in its application.

5. As part of the determination that a BOC has satisfied the requirements of section 271, the Commission considers whether the BOC has fully implemented the competitive checklist in subsection (c)(2)(B). The BOC at all times bears the burden of proof of compliance with section 271, even if no party challenges its compliance with a particular requirement.<sup>16</sup> In demonstrating its compliance, a BOC must show that it has a concrete and specific legal obligation to furnish the item upon request pursuant to state-approved interconnection agreements that set forth prices and other terms and conditions for each checklist item, and that it is currently furnishing, or is ready to furnish, the checklist items in quantities that competitors may reasonably demand and at an acceptable level of quality." In particular, the BOC must demonstrate that it is offering interconnection and access to network elements on a

<sup>13</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6246, para. 19; see also *American Tel. & Tel. Co. v. FCC*, 220 F.3d 607, 631 (D.C. Cir. 2000).

<sup>14</sup> See *Procedures for Bell Operating Company Applications Under New Section 271 of the Communications Act*, Public Notice, 11 FCC Rcd 19708, 19711 (1996); *Revised Comment Schedule For Ameritech Michigan Application, as amended, for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Services in the State of Michigan*, Public Notice, DA 97-127 (rel. Jan. 17, 1997); *Revised Procedures for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, 13 FCC Rcd 17457 (1997); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 99-1994 (rel. Sept. 28, 1999); *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01-734 (CCB rel. Mar. 23, 2001) (collectively "271 Procedural Public Notices").

<sup>15</sup> See, e.g., *SWBT Kansas/Oklahoma Order* 16 FCC Rcd at 6247-50, paras. 21-27; *SWBT Texas Order*, 15 FCC Rcd at 18370-73, paras. 34-42; *Bell Atlantic New York Order*, 15 FCC Rcd at 3968-71, paras. 32-42.

<sup>16</sup> See *SWBT Texas Order*, 15 FCC Rcd at 18374, para. 46; *Bell Atlantic New York Order*, 15 FCC Rcd at 3912, para. 46.

<sup>17</sup> See *Bell Atlantic New York Order*, 15 FCC Rcd at 3973-74, para. 52.

nondiscriminatory basis.” Previous Commission orders addressing section 271 applications have elaborated on this statutory **standard**.<sup>19</sup> First, for those functions the BOC provides to competing carriers that *are* analogous to the functions a BOC provides to itself in connection with its **own** retail service offerings, the BOC must provide access to competing carriers in “substantially the **same** time and manner” as it provides to itself.<sup>20</sup> Thus, where a retail analogue exists, a BOC must provide access that is equal to (i.e., substantially the same as) the level of access that the BOC provides itself, its customers, or its affiliates, in terms of quality, accuracy, and timeliness.” For those functions that have no retail analogue, the BOC must demonstrate that the access it provides to competing carriers would offer an efficient carrier a “meaningful opportunity to compete.””

6. The determination of whether the statutory standard is met is ultimately a judgment the Commission must make based on its expertise in promoting competition in local markets and in telecommunications regulation **generally**.<sup>23</sup> The Commission has not established, nor does it believe it appropriate to establish, specific objective criteria for what constitutes “substantially the same time and manner” or a “meaningful opportunity to **compete**.”<sup>24</sup> Whether this legal standard is met can only be decided based on an analysis of specific facts and circumstances. Therefore, the Commission **looks** at each application on a case-by-case basis and considers the totality of the circumstances, including the origin and quality of the information in the record, to determine whether the nondiscrimination requirements of the Act are met.

#### A. Performance Data

7. As established in prior section 271 orders, the Commission has found that performance measurements provide valuable evidence regarding a BOC’s compliance or noncompliance with individual checklist items. The Commission expects that, in its *prima facie* case in the initial application, a BOC relying on performance data will:

<sup>18</sup> See 47 U.S.C. § 271(c)(2)(B)(i), (ii).

<sup>19</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6250-51, paras. 28-29; *Bell Atlantic New York Order*, 15 FCC Rcd at 3971-72, paras. 44-46.

<sup>20</sup> *SWBT Texas Order*, 15 FCC Rcd at 18373, para. 44; *Bell Atlantic New York Order*, 15 FCC Rcd at 3971, para. 44.

<sup>21</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3971, para. 44; *Ameritech Michigan Order*, 12 FCC Rcd at 20618-19.

<sup>22</sup> *Id*

<sup>23</sup> *SWBT Texas Order*, 15 FCC Rcd at 18374, para. 46; *Bell Atlantic New York Order*, 15 FCC Rcd at 3972, para. 46.

<sup>24</sup> *Id*

- a) provide sufficient performance data to support its contention that the statutory requirements are satisfied;
- b) identify the facial disparities between the applicant's performance for itself and its performance for competitors;
- c) explain why those facial disparities are anomalous, caused by forces beyond the applicant's control (e.g., competing carrier-caused errors), or have no meaningful adverse impact on a competing carrier's ability to obtain and serve customers; and
- d) provide the underlying data, analysis, and methodologies necessary to enable the Commission and commenters meaningfully to evaluate and contest the validity of the applicant's explanations for performance disparities, including, for example, carrier specific carrier-to-carrier performance data.

8. The Commission has explained in prior orders that parity and benchmark standards established by state commissions do not represent absolute maximum or minimum levels of performance necessary to satisfy the competitive checklist. Rather, where these standards are developed through open proceedings with input from both the incumbent and competing carriers, these standards can represent informed and reliable attempts to objectively approximate whether competing carriers are being served by the incumbent in substantially the same time and manner, or in a way that provides them a meaningful opportunity to compete.” Thus, to the extent there is no statistically significant difference between a BOC's provision of service to competing carriers and its own retail customers, the Commission generally need not look any further. Likewise, if a BOC's provision of service to competing carriers satisfies the performance benchmark, the analysis is usually done. Otherwise, the Commission will examine the evidence further to make a determination whether the statutory nondiscrimination requirements are met.<sup>25</sup> Thus, the Commission will examine the explanations that a BOC and others provide about whether these data accurately depict the quality of the BOC's performance. The Commission also may examine how many months a variation in performance has existed and what the recent trend has been. The Commission may find that statistically significant differences exist, but conclude that such differences have little or no competitive significance in the marketplace. In such cases, the Commission may conclude that the differences are not meaningful in terms of statutory compliance. Ultimately, the determination of whether a BOC's performance meets the statutory requirements necessarily is a contextual decision based on the totality of the circumstances and information before the Commission.

9. Where there are multiple performance measures associated with a particular checklist item, the Commission would consider the performance demonstrated by all the measurements as a whole. Accordingly, a disparity in performance for one measure, by itself,

<sup>25</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6252, para. 31; *SWBT Texas Order*, 15 FCC Rcd at 18377, para. 55 & n.102.

<sup>26</sup> See *Bell Atlantic New York Order*, 15 FCC Rcd at 3970, para. 59

may not provide a basis for finding noncompliance with the checklist. The Commission may also find that the reported performance data are affected by factors beyond a BOC's control, a finding that would make it less likely to hold the BOC wholly accountable for the disparity. This is not to say, however, that performance discrepancies on a single performance metric are unimportant. Indeed, under certain circumstances, disparity with respect to one performance measurement may support a finding of statutory noncompliance, particularly if the disparity is substantial **or** has endured for a long time, **or** if it is accompanied by other evidence of discriminatory conduct **or** evidence that competing carriers have been denied a meaningful opportunity to compete.

10. In sum, the Commission does not use performance measurements as a substitute for the 14-point competitive checklist. Rather, it uses performance measurements as valuable evidence with which to inform the judgment as to whether a BOC has complied with the checklist requirements. Although performance measurements add necessary objectivity and predictability to the review, they cannot wholly replace the Commission's **own** judgment as to whether a BOC has complied with the competitive checklist.

#### **B. Relevance of Previous Section 271 Approvals**

11. In some section 271 applications, the volumes of the BOC's commercial orders may be significantly lower than they were in prior proceedings. In certain instances, volumes may be so low as to render the performance data inconsistent and **inconclusive**.<sup>27</sup> Performance data based on low volumes of orders or other transactions are not as reliable an indicator of checklist compliance **as** performance based on larger numbers of observations. Indeed, where performance data are based on a low number of observations, small variations in performance may produce wide swings in the reported performance data. It is thus not possible to place the same evidentiary weight upon – and to draw the same types of conclusions from – performance data where volumes are low, as for data based on more robust activity.

12. In such cases, findings in prior, related section 271 proceedings may be a relevant factor in the Commission's analysis. Where a BOC provides evidence that a particular system reviewed and approved in a prior section 271 proceeding is also used in the proceeding at hand, the Commission's review of the same system in the current proceeding will be informed by the findings in the prior one. Indeed, to the extent that issues have already been briefed, reviewed and resolved in a prior section 271 proceeding, and absent new evidence **or** changed circumstances, an application for a related state should not be a forum for re-litigating and reconsidering those issues. Appropriately employed, such a practice can give us a fuller picture of the BOC's compliance with the section 271 requirements while avoiding, for all parties

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<sup>27</sup> The Commission has never required, however, an applicant to demonstrate that it processes and provisions a substantial commercial volume of orders, or has achieved a specific market share in its service area, as a prerequisite for satisfying the competitive checklist. *See Ameritech Michigan Order*, 12 FCC Rcd at 20585, para. 77 (explaining that Congress had considered and rejected language that would have imposed a "market share" requirement in section 271(c)(1)(A)).

involved in the section 271 process, the delay and expense associated with redundant and unnecessary proceedings and submissions.

13. However, the statute requires the Commission to make a separate determination of checklist compliance for each state and, accordingly, we do not consider any finding from previous section 271 orders to be dispositive of checklist compliance in current proceedings. While the Commission's review may be informed by prior findings, the Commission will consider all relevant evidence in the record, including state-specific factors identified by commenting parties, the states, the Department of Justice. However, the Commission has always held that an applicant's performance towards competing carriers in an actual commercial environment is the best evidence of nondiscriminatory access to OSS and other network elements.<sup>28</sup> Thus, the BOC's actual performance in the applicant state may be relevant to the analysis and determinations with respect to the 14 checklist items. Evidence of satisfactory performance in another state cannot trump convincing evidence that an applicant fails to provide nondiscriminatory access to a network element in the applicant state.

14. Moreover, because the Commission's review of a section 271 application must be based on a snapshot of a BOC's recent performance at the time an application is filed, the Commission cannot simply rely on findings relating to an applicant's performance in an anchor state at the time it issued the determination for that state. The performance in that state could change due to a multitude of factors, such as increased order volumes or shifts in the mix of the types of services or UNEs requested by competing carriers. Thus, even when the applicant makes a convincing showing of the relevance of anchor state data, the Commission must examine how recent performance in that state compares to performance at the time it approved that state's section 271 application, in order to determine if the systems and processes continue to perform at acceptable levels.

### III. COMPLIANCE WITH ENTRY REQUIREMENTS – SECTIONS 271(c)(1)(A) & 271(c)(1)(B)

15. As noted above, in order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or 271(c)(1)(B) (Track B).<sup>29</sup> To qualify for Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service . . . to residential and business subscribers."<sup>30</sup> The Act states that "such telephone service may be offered . . . either exclusively over [the competitor's] own telephone exchange service facilities or predominantly over [the competitor's] own telephone exchange facilities in combination with the resale of the telecommunications services of another

<sup>28</sup> See *SWBT Texas Order*, 15 FCC Rcd at 18376, para. 53; *Bell Atlantic New York Order*, 15 FCC Rcd at 3974, para. 53.

<sup>29</sup> See 47 U.S.C. § 271(d)(3)(A)

<sup>30</sup> *Id.*

carrier.”<sup>31</sup> The Commission concluded in the *Ameritech Michigan Order* that section 271(c)(1)(A) is satisfied if one or more competing providers collectively serve residential and business subscribers.<sup>32</sup>

16. As an alternative to Track A, Section 271(c)(1)(B) permits BOCs to obtain authority to provide in-region, interLATA services if, after 10 months from the date of enactment, no facilities-based provider, as described in subparagraph (A), has requested the access and interconnection arrangements described therein (referencing one or more binding agreements approved under Section 252), but the state has approved an SGAT that satisfies the competitive checklist of subsection (c)(2)(B). Under section 271(d)(3)(A)(ii), the Commission shall not approve such a request for in-region, interLATA service unless the BOC demonstrates that, “with respect to access and interconnection generally offered pursuant to [an SGAT], such statement offers all of the items included in the competitive checklist.”<sup>33</sup> Track B, however, is not available to a BOC if it has already received a request for access and interconnection from a prospective competing provider of telephone exchange service.”

#### IV. COMPLIANCE WITH THE COMPETITIVE CHECKLIST – SECTION 271(c)(2)(B)

##### A. Checklist Item 1 – Interconnection

17. Section 271(c)(2)(B)(i) of the Act requires a section 271 applicant to provide “[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).”<sup>35</sup> Section 251(c)(2) imposes a duty on incumbent LECs “to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier’s network . . . for the transmission and routing of telephone exchange service and exchange access.”<sup>36</sup> In the *Local Competition First Report and Order*, the Commission concluded that interconnection referred “only to the physical linking of two networks for the

<sup>31</sup> *Id.*

<sup>32</sup> *See Ameritech Michigan Order*, 12 FCC Rcd at 20589, para. 85; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20633-35, paras. 46-48.

<sup>33</sup> 47 U.S.C. § 271(d)(3)(A)(ii).

<sup>34</sup> *See Ameritech Michigan Order*, 12 FCC Rcd at 20561-62, para. 34. Nevertheless, the above-mentioned foreclosure of Track B as an option is subject to limited exceptions. *See* 47 U.S.C. § 271(c)(1)(B); *see also Ameritech Michigan Order*, 12 FCC Rcd at 20563-64, paras. 37-38.

<sup>35</sup> 47 U.S.C. § 271(c)(2)(B)(i); *see Bell Atlantic New York Order*, 15 FCC Rcd at 3977-78, para. 63; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640, para. 61; *Ameritech Michigan Order*, 12 FCC Rcd at 20662, para. 222.

<sup>36</sup> 47 U.S.C. § 251(c)(2)(A).

mutual exchange of **traffic**.<sup>37</sup> Section 251 contains three requirements for the provision of interconnection. First, an incumbent LEC must provide interconnection “at any technically feasible point within the carrier’s **network**.”<sup>38</sup> Second, an incumbent LEC must provide interconnection that is “at least equal in quality to that provided by the local exchange carrier to itself.”<sup>39</sup> Finally, the incumbent LEC must provide interconnection “on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms of the agreement and the requirements of [section 251] and section 252.”<sup>40</sup>

18. To implement the equal-in-quality requirement in section 251, the Commission’s rules require an incumbent LEC to design and operate its interconnection facilities to meet “the same technical criteria and service standards” that are used for the interoffice trunks within the incumbent LEC’s network.<sup>41</sup> In the *Local Competition First Report and Order*, the Commission identified trunk group blockage and transmission standards as indicators of an incumbent LEC’s technical criteria and service standards.<sup>42</sup> In prior section 271 applications, the Commission concluded that disparities in trunk group blockage indicated a failure to provide interconnection to competing carriers equal-in-quality to the interconnection the BOC provided to its own retail operations.<sup>43</sup>

19. In the *Local Competition First Report and Order*, the Commission concluded that the requirement to provide interconnection on terms and conditions that are “just, reasonable, and nondiscriminatory” means that an incumbent LEC must provide interconnection to a competitor in a manner no less efficient than the way in which the incumbent LEC provides the comparable

<sup>37</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 15590, para. 176 (1996) (*Local Competition First Report and Order*). Transport and termination of traffic are therefore excluded from the Commission’s definition of interconnection. *See id.*

<sup>38</sup> 47 U.S.C. § 251(c)(2)(B). In the *Local Competition First Report and Order*, the Commission identified a minimum set of technically feasible points of interconnection. *See Local Competition First Report and Order*, 11 FCC Rcd at 15607-09, paras. 204-11.

<sup>39</sup> 47 U.S.C. § 251(c)(2)(C).

<sup>40</sup> *Id.* § 251(c)(2)(D).

<sup>41</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15613-15, paras. 221-225; see *Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 64; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20641-42, paras. 63-64.

<sup>42</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15614-15, paras. 224-25

<sup>43</sup> *See Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 64; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20648-50, paras. 14-77; *Ameritech Michigan Order*, 12 FCC Rcd at 20671-74, paras. 240-45. The Commission has relied on trunk blockage data to evaluate a BOC’s interconnection performance. Trunk group blockage indicates that end users are experiencing difficulty completing or receiving calls, which may have a direct impact on the customer’s perception of a competitive LEC’s service quality.



function to its own retail operations.” The Commission’s rules interpret this obligation to include, among other things, the incumbent LEC’s installation time for interconnection **service**<sup>45</sup> and its provisioning of two-way trunking **arrangements**.<sup>46</sup> Similarly, repair time **for** troubles affecting interconnection trunks is useful for determining whether a BOC provides interconnection service under “terms and conditions that are no less favorable than the terms and conditions” the BOC provides to its own retail operations.”

20. Competing carriers may choose any method of technically feasible interconnection at a particular point on the incumbent LEC’s **network**.<sup>48</sup> Incumbent LEC provision of interconnection trunking is one common means of interconnection. Technically feasible methods also include, but are not limited to, physical and virtual collocation and meet point **arrangements**.<sup>49</sup> The provision of collocation is an essential prerequisite to demonstrating compliance with item 1 of the competitive checklist? In the *Advanced Services First Report and Order*, the Commission revised its collocation rules to require incumbent LECs to include shared cage and cageless collocation arrangements as part of their physical collocation offerings.” In response to a remand from the D.C. Circuit, the Commission adopted the *Collocation Remand Order*, establishing revised criteria for equipment for which incumbent LECs must permit collocation, requiring incumbent LECs to provide cross-connects between collocated carriers, and establishing principles for physical collocation space and **configuration**.<sup>52</sup> To show

<sup>40</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15612, para. 218; *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3978, para. 65; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20642, para. 65.

<sup>45</sup> 47 C.F.R. § 51.305(a)(5).

<sup>46</sup> The Commission’s rules require an incumbent LEC to provide two-way trunking upon request, wherever two-way trunking arrangements are technically feasible. 47 C.F.R. § 51.305(f); *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3978-79, para. 65; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20642, para. 65; *Local Competition First Report and Order*, 11 FCC Rcd 15612-13, paras. 219-20.

<sup>47</sup> 47 C.F.R. § 51.305(a)(5).

<sup>48</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15779, paras. 549-50; *see Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, para. 61.

<sup>49</sup> 47 C.F.R. § 51.321(b); *Local Competition First Report and Order*, 11 FCC Rcd at 15779-82, paras. 549-50; *see also Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, para. 62.

<sup>50</sup> 47 U.S.C. § 251(c)(6) (requiring incumbent LECs to provide physical collocation); *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, paras. 61-62.

<sup>51</sup> *Deployment & Wireline Services offering Advanced Telecommunications Capability*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 4761, 4784-86, paras. 41-43 (1999), *aff’d in part and vacated and remanded in part sub nom. GTE Service Corp. v. FCC*, 205 F.3d 416 (D.C. Cir. 2000), *on recon., Collocation Reconsideration Order*, 15 FCC Rcd 17806 (2000); *on remand, Deployment & Wireline Services Offering Advanced Telecommunications Capability*, Fourth Report and Order, 16 FCC Rcd 15435 (2001) (*Collocation Remand Order*), *petition for recon. pending*.

compliance with its collocation obligations, a BOC must have processes and procedures in place to ensure that all applicable collocation arrangements are available on terms and conditions that are “just, reasonable, and nondiscriminatory” in accordance with section 251(c)(6) and the FCC’s implementing rules.<sup>53</sup> Data showing the quality of procedures for processing applications for collocation space, as well as the timeliness and efficiency of provisioning collocation space, help the Commission evaluate a BOC’s compliance with its collocation obligations.”

21. As stated above, checklist item 1 requires a BOC to provide “interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).”<sup>55</sup> Section 252(d)(1) requires state determinations regarding the rates, terms, and conditions of interconnection to be based on cost and to be nondiscriminatory, and allows the rates to include a reasonable profit.<sup>56</sup> The Commission’s pricing rules require, among other things, that in order to comply with its collocation obligations, an incumbent LEC provide collocation based on TELRIC.”

22. To the extent pricing disputes arise, the Commission will not duplicate the work of the state commissions. As noted in the *SWBT Texas Order*, the Act authorizes the state commissions to resolve specific carrier-to-carrier disputes arising under the local competition provisions, and it authorizes the federal district courts to ensure that the results of the state arbitration process are consistent with federal law.<sup>58</sup> Although the Commission has an independent statutory obligation to ensure compliance with the checklist, section 271 does not compel us to preempt the orderly disposition of intercarrier disputes by the state commissions, particularly now that the Supreme Court has restored the Commission’s pricing jurisdiction and has thereby directed the state commissions to follow FCC pricing rules in their disposition of those disputes.<sup>59</sup>

23. Consistent with the Commission’s precedent, the mere presence of interim rates will not generally threaten a section 271 application so long as: (1) an interim solution to a

<sup>52</sup>Continued from previous page) \_\_\_\_\_

See *Collocation Remand Order*, 16 FCC Rcd at 15441-42, para. 12

<sup>53</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20643, para. 66; *BellSouth Carolina Order*, 13 FCC Rcd at 649-51, para. 62.

<sup>54</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3979, para. 66; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20640-41, paras. 61-62.

<sup>55</sup> 47 U.S.C. § 271(c)(2)(B)(i) (emphasis added)

<sup>56</sup> *Id.* § 252(d)(1)

<sup>57</sup> See 47 C.F.R. §§ 51.501-07, 51.509(g); *Local Competition First Report and Order*, 11 FCC Rcd at 15812-16, 15844-61, 15874-76, 15912, paras. 618-29, 674-712, 743-51, 826.

<sup>58</sup> See *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; see also 47 U.S.C. §§ 252(c), (e)(6); *American Tel. & Tel. Co. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999) (*AT&T v. Iowa Utils. Bd.*).

<sup>59</sup> *SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. at 377-86

particular rate dispute is reasonable under the circumstances; (2) the state commission has demonstrated its commitment to the Commission's pricing rules; and (3) provision is made for refunds **or** true-ups once permanent rates are set.<sup>60</sup> In addition, the Commission has determined that rates contained within an approved section 271 application, including those that are interim, are reasonable starting points for interim rates for the same carrier in an adjoining state.<sup>61</sup>

24. Although the Commission has been willing to grant a section 271 application with a limited number of interim rates where the above-mentioned three-part test is met, it is clearly preferable to analyze a section 271 application on the basis of rates derived from a permanent rate **proceeding**.<sup>62</sup> At some point, states will have had sufficient time to complete these proceedings. The Commission will, therefore, become more reluctant to continue approving section 271 applications containing interim rates. It would not be sound policy for interim rates to become a substitute for completing these significant proceedings.

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*SWBT Texas Order*, 15 FCC Rcd at 18394, para. 88; *see also Bell Atlantic New York Order*, 15 FCC Rcd at 4091, para. 258 (explaining the Commission's case-by-case review of interim prices).

<sup>61</sup>

*SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6359-60, para. 239

<sup>62</sup>

*See Bell Atlantic New York Order*, 15 FCC Rcd at 4091, para. 260

## B. Checklist Item 2 – Unbundled Network Elements”

### 1. Access to Operations Support Systems

25. Incumbent LECs **use** a variety of systems, databases, and personnel (collectively referred to as OSS) to provide service to their customers.’ The Commission consistently has found that nondiscriminatory access to **OSS** is a prerequisite to the development of meaningful local **competition**.<sup>63</sup> For example, new entrants must have access to the functions performed by the incumbent’s OSS in order to formulate and place orders for network elements or resale services, to install service to their customers, to maintain and repair network facilities, and to bill customers.<sup>66</sup> The Commission has determined that without nondiscriminatory access to the BOC’s OSS, a competing carrier “will be severely disadvantaged, if not precluded altogether, from fairly competing” in the local exchange market’

26. Section 271 requires the Commission to determine whether a BOC offers nondiscriminatory access to OSS functions. Section 271(c)(2)(B)(ii) requires a BOC to provide “nondiscriminatory access to network elements in accordance with the requirements of sections

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<sup>63</sup> We note that the United States Court of Appeals for the District of Columbia Circuit recently opined on two relevant Commission decisions, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (*UNE Remand Order*) and *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order in CC Doc. No. 98-147 and Fourth Report and Order in CC Doc. No. 96-98, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*). *USTA v. FCC*, 290 F.3d 415 (D. C. Cir. 2002), *petition for rehearing and suggestion for rehearing en banc denied Sept. 4, 2002*. The court’s decision addressed both our UNE rules and our line sharing rules. Further, the court stated that “the *Line Sharing Order* must be vacated and remanded.” *USTA v. FCC*, 290 F.3d at 429. The court also stated that it “grant[ed] the petitions for review[] and remand[ed] the *Line Sharing Order* and the *Local Competition Order* to the Commission for further consideration in accordance with the principles outlined.” *id.* at 430. On September 4, 2002, the D.C. Circuit denied petitions for rehearing filed by the Commission and others. *See Order*, Nos. 00-1012 and 00-1015 (D.C. Circuit, filed Sept. 4, 2002). On February 20, 2003, the Commission took action to revise its rules concerning incumbent LECs’ obligations to make available elements of their networks on an unbundled basis to requesting carriers. *FCC Adopts New Rules For Network Unbundling Obligations Of Incumbent Local Phone Carriers*, News Release, (rel. Feb. 20, 2003) (announcing adoption of an Order on Remand and Further Notice of Proposed Rulemaking in CC Docket No. 01-338, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*)(*Triennial Review News Release*). We note, however, that, in determining whether a BOC applicant has satisfied the requirements of section 271, the Commission evaluates an applicant’s compliance with the competitive checklist as developed in the Commission’s local competition rules and orders in effect at the time the application was filed.

<sup>64</sup> *Id.* at 3989-90, para. 83; *BellSouth South Carolina Order*, 13 FCC Rcd at 585.

<sup>65</sup> *See Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 83; *BellSouth South Carolina Order*, 13 FCC Rcd at 547-48, 585; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20653.

<sup>66</sup> *See Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 83

<sup>67</sup> *Id.*

251(c)(3) and 252(d)(1).”<sup>68</sup> The Commission has determined that access to OSS functions falls squarely within an incumbent LEC’s duty under section 251(c)(3) to provide unbundled network elements (UNEs) under terms and conditions that are nondiscriminatory and just and reasonable, and its duty under section 251(c)(4) to offer resale services without imposing any limitations **or** conditions that are discriminatory **or unreasonable**.<sup>69</sup> The Commission must therefore examine a BOC’s OSS performance to evaluate compliance with section 271(c)(2)(B)(ii) and (xiv).<sup>70</sup> In addition, the Commission has also concluded that the duty to provide nondiscriminatory access to OSS functions is embodied in other terms of the competitive checklist as well.” Consistent with prior orders, the Commission examines a BOC’s OSS performance directly under checklist items 2 and 14, as well as other checklist **terms**.<sup>72</sup>

27. As part of its statutory obligation to provide nondiscriminatory access to OSS functions, a BOC must provide access that sufficiently supports each of the three modes of competitive entry envisioned by the 1996 Act – competitor-owned facilities, UNEs, and **resale**.<sup>73</sup> For OSS functions that are analogous to those that a BOC provides to itself, its customers **or** its affiliates, the nondiscrimination standard requires the BOC to offer requesting carriers access that is equivalent in terms of quality, accuracy, and **timeliness**.<sup>74</sup> The BOC must provide access that permits competing carriers to perform these functions in “substantially the same time and manner” as the BOC.<sup>75</sup> The Commission has recognized in prior orders that there may be situations in which a BOC contends that, although equivalent access has not been achieved for an analogous function, the access that it provides is nonetheless nondiscriminatory within the meaning of the **statute**.<sup>76</sup>

<sup>68</sup> 47 U.S.C. § 271(c)(2)(B)(ii)

<sup>69</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3990, para. 84.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* As part of a BOC’s demonstration that it is “providing” a checklist item (e.g., unbundled loops, unbundled local switching, resale services), it must demonstrate that it is providing nondiscriminatory access to the systems, information, and personnel that support that element or service. An examination of a BOC’s OSS performance is therefore integral **to** the determination of whether a BOC is offering all of the items contained in the competitive checklist. *Id.*

<sup>72</sup> *Id.* at 3990-91, para. 84.

<sup>73</sup> *Id.* at 3991, para. 85

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* For example, the Commission would not deem an incumbent LEC to be providing nondiscriminatory access to OSS if limitations on the processing of information between the interface and the back office systems prevented a competitor from performing a specific function in substantially the same time and manner as the incumbent performs that function for itself.

<sup>76</sup> *See id.*

28. For OSS functions that have no retail analogue, the BOC must offer access “sufficient to allow an efficient competitor a meaningful opportunity to compete.”” In assessing whether the quality of access affords an efficient competitor a meaningful opportunity to compete, the Commission will examine, in the first instance, whether specific performance standards exist for those **functions**.<sup>78</sup> In particular, the Commission will consider whether appropriate standards for measuring OSS performance have been adopted by the relevant state commission or agreed upon by the BOC in an interconnection agreement or during the implementation of such an **agreement**.<sup>79</sup> If such performance standards exist, the Commission will evaluate whether the BOC’s performance is sufficient to allow an efficient competitor a meaningful opportunity to compete.”

29. The Commission analyzes whether a BOC has met the nondiscrimination standard for each OSS function using a two-step approach. First, the Commission determines “whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them.”<sup>81</sup> The Commission next assesses “whether the OSS functions that the BOC has deployed are operationally ready, as a practical matter.””

30. Under the first inquiry, a BOC must demonstrate that it has developed sufficient electronic (for functions that the BOC accesses electronically) and manual interfaces to allow competing carriers equivalent access to all of the necessary OSS **functions**.<sup>83</sup> For example, a

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<sup>77</sup> *Id.* at 3991, para. 86.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* As a general proposition, specific performance standards adopted by a state commission in an arbitration decision would be more persuasive evidence of commercial reasonableness than a standard unilaterally adopted by the BOC outside of its interconnection agreement. *Id.* at 20619-20.

<sup>80</sup> *See id.* at 3991-92, para. 86

<sup>81</sup> *Id.* at 3992, para. 87; *Ameritech Michigan Order*, 12 FCC Rcd at 20616; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20654; *BellSouth South Carolina Order*, 13 FCC Rcd at 592-93. In making this determination, the Commission “consider[s] all of the automated and manual processes a BOC has undertaken to provide access to OSS functions,” including the interface (or gateway) that connects the competing carrier’s own operations support systems to the BOC; any electronic or manual processing link between that interface and the BOC’s OSS (including all necessary back office systems and personnel); and all of the OSS that a BOC uses in providing network elements and resale services to a competing carrier. *Ameritech Michigan Order*, 12 FCC Rcd at 20615; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20654 n.241.

<sup>82</sup> *See Bell Atlantic New York Order*, 15 FCC Rcd at 3992, para. 88

<sup>83</sup> *Id.* at 3992, para. 87; *see also Ameritech Michigan Order*, 12 FCC Rcd at 20616, para. 136 (The Commission determines “whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them.”). For example, a BOC must provide competing (continued....)

BOC must provide competing carriers with the specifications necessary for carriers to design **or** modify their systems in a manner that will enable them to communicate with the BOC's systems and any relevant **interfaces**.<sup>84</sup> In addition, a BOC must disclose to competing carriers any internal business rules" and other formatting information necessary to ensure that a carrier's requests and orders *are* processed **efficiently**.<sup>86</sup> Finally, a BOC must demonstrate that its **OSS** is designed to accommodate both current demand and projected demand for competing carriers' access to OSS functions!" Although not a prerequisite, the Commission continues to encourage the use of industry standards as an appropriate means of meeting the needs of a competitive local exchange market.<sup>88</sup>

31. Under the second inquiry, the Commission examines performance measurements and other evidence of commercial readiness **to** ascertain whether the BOC's OSS is handling current demand and will be able to handle reasonably foreseeable future **volumes**.<sup>89</sup> The most probative evidence that OSS functions are operationally ready is actual commercial **usage**.<sup>90</sup> Absent sufficient and reliable data on commercial usage, the Commission will consider the results of carrier-to-carrier testing, independent third-party testing, and internal testing in assessing the commercial readiness of a BOC's OSS.<sup>91</sup> Although the Commission does not require OSS testing, a persuasive test will provide us with an objective means by which to evaluate a BOC's OSS readiness where there is little to no evidence of commercial usage, or may otherwise strengthen an application where the BOC's evidence **of** actual commercial usage is weak or is otherwise challenged by competitors. The persuasiveness of a third-party review, however, is dependent upon the qualifications, experience and independence of the third party and the conditions and scope of the review itself." If the review is limited in scope **or** depth **or** is

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carriers the specifications necessary to design their systems interfaces and business rules necessary to format orders, and demonstrate that systems are scalable to handle current and projected demand. **Id**

<sup>84</sup> *Id.*

<sup>85</sup> Business rules refer to the protocols that a BOC uses to ensure uniformity in the format of orders and include information concerning ordering codes such as universal service ordering codes (USOCs) and field identifiers (FIDs). *Id.*; *see also Ameritech Michigan Order*, 12 FCC Rcd at 20617 n.335.

<sup>86</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3992, para. 88

<sup>87</sup> *Id.*

<sup>88</sup> *See id.*

<sup>89</sup> *Id.* at 3993, para. 89.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *See id.*; *Ameritech Michigan Order*, 12 FCC Rcd at 20659 (emphasizing that a third-party review should encompass the entire obligation of the incumbent LEC to provide nondiscriminatory access, and, where applicable, should consider the ability of actual competing carriers in the market to operate using the incumbent's **OSS** access)

not independent and blind, the Commission will give it minimal weight. **As** noted above, to the extent the Commission reviews performance data, it looks at the totality of the circumstances and generally does not view individual performance disparities, particularly if they are isolated and slight, **as** dispositive of whether a BOC has satisfied its checklist obligations.<sup>93</sup> Individual performance disparities may, nevertheless, result in a finding **of** checklist noncompliance, particularly if the disparity is substantial or has endured for a long time, or if it is accompanied by other evidence of discriminatory conduct or evidence that competing carriers have been denied a meaningful opportunity to compete.

#### a. Relevance of a BOC's Prior Section 271 Orders

32. The *SWBT Kansas/Oklahoma Order* specifically outlined a non-exhaustive evidentiary showing that must be made in the initial application when a BOC seeks to rely on evidence presented in another application.<sup>94</sup> First, a BOC's application must explain the extent to which the OSS are "the same" – that is, whether it employs the shared use of a single OSS, or the use of systems that are identical, but **separate**.<sup>95</sup> To satisfy this inquiry, the Commission **looks** to whether the relevant states utilize a common set of processes, business **rules**, interfaces, systems and, in many instances, even **personnel**.<sup>96</sup> The Commission will also carefully examine third party reports that demonstrate that the BOC's OSS are the same in each of the relevant states.<sup>97</sup> Finally, where a BOC has discernibly separate OSS, it must demonstrate that its OSS reasonably can be expected to behave in the same **manner**.<sup>98</sup> Second, unless an applicant **seeks** to establish only that certain discrete components of its OSS are the same, an applicant must submit evidence relating to *all* aspects **of** its OSS, including those OSS functions performed by BOC personnel.

#### b. Pre-Ordering

33. A BOC must demonstrate that: (i) it offers nondiscriminatory access to OSS pre-ordering functions associated with determining whether a loop is capable of supporting xDSL advanced technologies; (ii) competing carriers successfully have built and **are** using application-to-application interfaces to perform pre-ordering functions and are able to integrate pre-ordering and ordering interfaces;<sup>99</sup> and (iii) its pre-ordering systems provide reasonably prompt response

<sup>93</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6301-02, para. 138.

<sup>94</sup> See *id.* at 6286-91, paras. 107-18.

<sup>95</sup> See *id.* at 6288, para. 111.

<sup>96</sup> The Commission has consistently held that a BOC's OSS includes both mechanized systems and manual processes, and thus the OSS functions performed by BOC personnel have been part of the FCC's OSS functionality and commercial readiness reviews.

<sup>97</sup> See *SWBT Kansas/Oklahoma Order, id.* at 6287, para. 108.

<sup>98</sup> See *id.* at 6288, para. 111.

<sup>99</sup> In prior orders, the Commission has emphasized that providing pre-ordering functionality through an application-to-application interface is essential in enabling carriers to conduct real-time processing and to integrate (continued...)



times and are consistently available in a manner that affords competitors a meaningful opportunity to **compete**.<sup>100</sup>

34. The pre-ordering phase of OSS generally includes those activities that a carrier undertakes to gather and verify the information necessary to place an order.” Given that pre-ordering represents the first exposure that a prospective customer has to a competing carrier, it is critical that a competing carrier is able to accomplish pre-ordering activities in a manner no less efficient and responsive than the incumbent.” Most of the pre-ordering activities that must be undertaken by a competing carrier to order resale services and UNEs from the incumbent are analogous to the activities a BOC **must** accomplish to furnish service **to its own** customers. For these pre-ordering functions, a BOC must demonstrate that it provides requesting carriers access that enables them to perform pre-ordering functions in substantially the same time and manner **as** its retail operations.” For those pre-ordering functions that lack a retail analogue, a BOC must provide access that affords an efficient competitor a meaningful opportunity to **compete**.<sup>104</sup> In prior orders, the Commission has emphasized that providing pre-ordering functionality through an application-to-application interface is essential in enabling carriers to conduct real-time processing and to integrate pre-ordering and ordering functions in the same manner as the BOC.<sup>105</sup>

(Continued from previous page)

pre-ordering and ordering functions in the same manner as the BOC. *SWBT Texas Order*, 15 FCC Rcd at 18426, para. 148.

<sup>100</sup>

The Commission has held previously that an interface that provides responses in a prompt timeframe and is stable and reliable, is necessary for competing carriers to market their services and serve their customers as efficiently and at the same level of quality **as** a BOC serves its own customers. *See Bell Atlantic New York Order*, 15 FCC Rcd at 4025 and 4029, paras. 145 and 154.

<sup>101</sup>

*See Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 1-79; *see also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20660, para. 94 (referring to “pre-ordering and ordering” collectively **as** “the exchange of information between telecommunications carriers about current or proposed customer products and services or unbundled network elements or some combination thereof”). In prior orders, the Commission has identified the following five pre-order functions: (1) customer service record (CSR) information; (2) address validation; (3) telephone number information; (4) due date information; (5) services and feature information. *See Bell Atlantic New York Order*, 15 FCC Rcd at 4015, para. 132; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20660, para. 94; *BellSouth South Carolina Order*, 13 FCC Rcd at 619, para. 147.

<sup>102</sup>

*Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129

<sup>103</sup>

*Id.*; *see also BellSouth South Carolina Order*, 13 FCC Rcd at 623-29 (concluding that failure to deploy an application-to-application interface denies competing carriers equivalent access to pre-ordering OSS functions).

<sup>104</sup>

*Bell Atlantic New York Order*, 15 FCC Rcd at 4014, para. 129

<sup>105</sup>

*See id.* at 4014, para. 130; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20661-67, para. 105

## (i) Access to Loop Qualification Information

35. In accordance with the *UNE Remand Order*, “the Commission requires incumbent carriers to provide competitors with access to all of the **same** detailed information about the loop that is available to the **incumbents**,<sup>107</sup> and in the same time frame, so that a competing carrier can make an independent judgment at the pre-ordering stage about whether an end user loop is capable of supporting the advanced services equipment the competing carrier intends to **install**.<sup>108</sup> Under the *UNE Remand Order*, the relevant inquiry is not whether a BOC’s retail **arm** accesses such underlying information but whether such information exists anywhere in a BOC’s back office and can be accessed by any of a BOC’s **personnel**.<sup>109</sup> Moreover, a BOC may not “filter or digest” the underlying information and may not provide only information that is useful in provisioning of a particular type of xDSL that a BOC **offers**.<sup>110</sup> A BOC must also provide loop qualification information based, for example, on an individual address **or** zip code of the end users in a particular wire center, NXX code **or** on any other basis that the BOC provides such information to itself. Moreover, a BOC must also provide access for competing carriers to the loop qualifying information that the BOC can itself access manually **or** electronically. Finally, a BOC must provide access to loop qualification information to competitors within the same time intervals it is provided to the BOC’s retail operations **or** its advanced services affiliate.” As the Commission determined in the *UNE Remand Order*, however, “to the extent such information is not normally provided to the incumbent’s retail personnel, but can be obtained by contacting back office personnel, it must be provided to

<sup>106</sup> *UNE Remand Order*, 15 FCC Rcd at 3885, para. 426 (determining “that the pre-ordering function includes access to loop qualification information”).

<sup>107</sup> See *id.* At a minimum, a BOC must provide (1) the composition of the loop material, including both fiber and copper; (2) the existence, location and type of any electronic or other equipment on the loop, including but not limited to, digital loop carrier or other remote concentration devices, feeder/distribution interfaces, bridge taps, load coils, pair-gain devices, disturbers in the same or adjacent binder groups; (3) the loop length, including the length and location of each type of transmission media; (4) the wire gauge(s) of the loop; and (5) the electrical parameters of the loop, which may determine the suitability of the loop for various technologies. *Id.*

<sup>108</sup> As the Commission has explained in prior proceedings, because characteristics of a loop, such as its length and the presence of various impediments to digital transmission, can hinder certain advanced services technologies, carriers often seek to “pre-qualify” a loop by accessing basic loop makeup information that will assist carriers in ascertaining whether the loop, either with or without the removal of the impediments, can support a particular advanced service. See *id.*, 15 FCC Rcd at 4021, para. 140.

<sup>109</sup> *UNE Remand Order*, 15 FCC Rcd at 3885-3887, paras. 427-431 (noting that “to the extent such information is not normally provided to the incumbent’s retail personnel, but can be obtained by contacting back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information.”).

<sup>110</sup> See *SWBT Kansas Oklahoma Order*, 16 FCC Rcd at 6292-93, para. 121.

<sup>111</sup> *Id.*

requesting carriers within the **same** time frame that any incumbent personnel are able to obtain such information.”””

c. Ordering

36. Consistent with section 271(c)(2)(B)(ii), a BOC must demonstrate its ability to provide competing carriers with access to the OSS functions necessary for placing wholesale orders. For those functions of the ordering systems for which there is a retail analogue, a BOC must demonstrate, with performance data and other evidence, that it provides competing carriers with access to its OSS in substantially the same time and manner as it provides to its retail operations. For those ordering functions that lack a direct retail analogue, a BOC must demonstrate that its systems and performance allow an efficient carrier a meaningful opportunity to compete. As in prior section 271 orders, the Commission looks primarily at the applicant’s ability to return order confirmation notices, order reject notices, order completion notices and jeopardies, and at its order flow-through rate.””

d. Provisioning

37. A BOC must provision competing carriers’ orders for resale and UNE-P services in substantially the same time and manner as it provisions orders for its own retail customers.”” Consistent with the approach in prior section 271 orders, the Commission examines a BOC’s provisioning processes, as well as its performance with respect to provisioning timeliness (i.e., missed due dates and average installation intervals) and provisioning quality (i.e., service problems experienced at the provisioning stage).””

e. Maintenance and Repair

38. A competing carrier that provides service through resale or UNEs remains dependent upon the incumbent LEC for maintenance and repair. Thus, as part of its obligation to provide nondiscriminatory access to OSS functions, a BOC must provide requesting carriers with nondiscriminatory access to its maintenance and repair systems.”” To the extent a BOC performs

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<sup>112</sup> *UNE Remand Order*, 15 FCC Rcd at 3885-3887, paras. 427-31

<sup>113</sup> See *SWBT Texas Order*, 15 FCC Rcd at 18438, para. 170; *Bell Atlantic New York Order*, 15 FCC Rcd at 4035-39, paras. 163-66. The Commission examines (i) order flow-through rates, (ii) jeopardy notices and (iii) order completion notices using the “same time and manner” standard. The Commission examines order confirmation notices and order rejection notices using the “meaningful opportunity to compete” standard.

<sup>114</sup> See *Bell Atlantic New York*, 15 FCC Rcd at 4058, para. 196. For provisioning timeliness, the Commission looks to missed due dates and average installation intervals; for provisioning quality, the Commission looks to service problems experienced at the provisioning stage.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.* at 4067, para. 212; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20692; *Ameritech Michigan Order*, 12 FCC Rcd at 20613.20660-61.

analogous maintenance and repair functions for its retail operations, it must provide competing carriers access that enables them *to* perform maintenance and repair functions “in substantially the same time and manner” as a BOC provides its retail customers.<sup>117</sup> Equivalent access ensures that competing carriers can assist customers experiencing service disruptions using the same network information and diagnostic tools that are available to BOC personnel.<sup>118</sup> Without equivalent access, a competing carrier would be placed at a significant competitive disadvantage, as its customer would perceive a problem with a BOC’s network as a problem with the competing carrier’s own network.<sup>119</sup>

#### f. Billing

39. A BOC must provide nondiscriminatory access to its billing functions, which is necessary to enable competing carriers to provide accurate and timely bills to their customers.” In making this determination, the Commission assesses a BOC’s billing processes and systems, and its performance data. Consistent with prior section 271 orders, a BOC must demonstrate that it provides competing carriers with complete and accurate reports on the service usage of competing carriers’ customers in substantially the same time and manner that a BOC provides such information to itself, and with wholesale bills in a manner that gives competing carriers a meaningful opportunity to compete.<sup>121</sup>

#### g. Change Management Process

40. Competing carriers need information about, and specifications for, an incumbent’s systems and interfaces to develop and modify their systems and procedures to access the incumbent’s OSS functions.” Thus, in order to demonstrate that it is providing nondiscriminatory access to its OSS, a BOC must first demonstrate that it “has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and . . . is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them.”” By showing that it adequately assists competing carriers to use available OSS functions, a BOC provides evidence that it offers an

<sup>117</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4058, para. 196; see also *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20692-93.

<sup>118</sup> *BellAtlantic New York Order*, 15 FCC Rcd at 4058, para. 196.

<sup>119</sup> *Id.*

<sup>120</sup> See *SWBT Texas Order*, 15 FCC Rcd at 18461, para. 210.

<sup>121</sup> See *id.*; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6316-17, at para. 163.

<sup>122</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 5999-4000, para. 102; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6279 n.197; *BellSouth South Carolina Order*, 15 FCC Rcd at 625 n.467; *Amerirech Michigan Order*, 11 FCC Rcd at 20617 n.334; *Local Competition Second Report and Order*, 11 FCC Rcd at 19742.

<sup>123</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3999, para. 102.

efficient competitor a meaningful opportunity to **compete**.<sup>124</sup> As part of this demonstration, the Commission will give substantial consideration to the existence of **an** adequate change management process and evidence that the BOC has adhered to this process over time.”

41. The change management process refers to the methods and procedures that the BOC employs to communicate with competing carriers regarding the performance of, and changes in, the BOC’s OSS.<sup>126</sup> Such changes may include updates to existing functions that impact competing carrier interface(s) upon a BOC’s release of new interface software; technology changes that require competing carriers to meet new technical requirements upon a BOC’s software release date; additional functionality changes that may be used at the competing carrier’s option, on or after a BOC’s release date for new interface software; and changes that may be mandated by regulatory authorities.” Without a change management process in place, a BOC can impose substantial costs on competing carriers simply by making changes to its systems and interfaces without providing adequate testing opportunities and accurate and timely notice and documentation of the changes.<sup>128</sup> Change management problems can impair a competing carrier’s ability to obtain nondiscriminatory access to UNEs, and hence a BOC’s compliance with section 271(2)(B)(ii).<sup>129</sup>

42. In evaluating whether a BOC’s change management plan affords an efficient competitor a meaningful opportunity to compete, the Commission first assesses whether the plan is adequate. In making this determination, it assesses whether the evidence demonstrates: (1) that information relating to the change management process is clearly organized and readily accessible to competing **carriers**;<sup>130</sup> (2) that competing carriers had substantial input in the design and continued operation of the change management process;” (3) that the change management plan defines a procedure for the timely resolution of change management disputes;” (4) the availability of a stable testing environment that mirrors production;<sup>133</sup> and (5) the efficacy of the

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<sup>124</sup> *Id.* at 3999-4000, para. 102

<sup>125</sup> *Id.* at 4000, para. 102.

<sup>126</sup> *Id.* at 4000, para. 103.

<sup>127</sup> *Id.*

<sup>128</sup> *Id.* at 4000, para. 103.

<sup>129</sup> *Id.*

<sup>130</sup> *Id.* at 4002, para. 107.

<sup>131</sup> *Id.* at 4000, para. 104.

<sup>112</sup> *Id.* at 4002, para. 108.

<sup>133</sup> *Id.* at 4002-03, paras. 109-10

documentation the BOC makes available for the purpose of building an electronic gateway.<sup>134</sup> After determining whether the BOC's change management plan is adequate, the Commission evaluates whether the BOC has demonstrated a pattern of compliance with this plan.<sup>135</sup>

## 2. UNE Combinations

43. In order to comply with the requirements of checklist item 2, a BOC must show that it is offering "[n]ondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3)."<sup>136</sup> Section 251(c)(3) requires an incumbent LEC to "provide, to any requesting telecommunications carrier. . . nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable, and nondiscriminatory."<sup>137</sup> Section 251(c)(3) of the Act also requires incumbent LECs to provide UNEs in a manner that allows requesting carriers to combine such elements in order to provide a telecommunications service.<sup>138</sup>

44. In the *Ameritech Michigan Order*, the Commission emphasized that the ability of requesting carriers to use UNEs, as well as combinations of UNEs, is integral to achieving Congress' objective of promoting competition in local telecommunications markets.<sup>139</sup> Using combinations of UNEs provides a competitor with the incentive and ability to package and market services in ways that differ from the BOCs' existing service offerings in order to compete in the local telecommunications market.<sup>140</sup> Moreover, combining the incumbent's UNEs with their own facilities encourages facilities-based competition and allows competing providers to provide a wide array of competitive choices.<sup>141</sup> Because the use of combinations of UNEs is an important strategy for entry into the local telecommunications market, as well as an obligation under the requirements of section 271, the Commission examines section 271 applications to

<sup>134</sup> *Id.* at 4003-04, para. 110. In the *Bell Atlantic New York Order*, the Commission used these factors in determining whether Bell Atlantic had an adequate change management process in place. See *id.* at 4004, para. 111. The Commission left open the possibility, however, that a change management plan different from the one implemented by Bell Atlantic may be sufficient to demonstrate compliance with the requirements of section 271. *Id.*

<sup>135</sup> *Id.* at 3999, para. 101, 4004-05, para. 112.

<sup>136</sup> 47 U.S.C. § 271(c)(2)(B)(ii).

<sup>137</sup> *Id.* § 251(c)(3).

<sup>138</sup> *Id.*

<sup>139</sup> *Anieritech Michigan Order*, 12 FCC Rcd at 20718-19; *BellSouth South Carolino Order*, 13 FCC Rcd at 646.

<sup>140</sup> *BellSouth South Carolina Order*, 13 FCC Rcd at 646; see also *Local Competition First Report and Order*, 11 FCC Rcd at 15666-68.

<sup>141</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4077-78, para. 230.

determine whether competitive carriers **are** able to combine network elements **as** required by the Act and the Commission's regulations.<sup>142</sup>

### 3. Pricing of Network Elements

45. Checklist item 2 of section 271 states that a BOC must provide "nondiscriminatory access to network elements in accordance with sections 251(c)(3) and 252(d)(1)" of the Act.<sup>143</sup> Section 251(c)(3) requires incumbent LECs to provide "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that **are** just, reasonable, and **nondiscriminatory**."<sup>144</sup> Section 252(d)(1) requires that a state commission's determination of the just and reasonable rates for network elements shall be based on the cost of providing the network elements, shall be nondiscriminatory, and may include a reasonable profit.<sup>145</sup> Pursuant to this statutory mandate, the Commission has determined that prices for UNEs must be based on the total element long run incremental cost (TELRIC) of providing those elements.<sup>146</sup> The Commission also promulgated rule 51.315(b), which prohibits incumbent LECs from separating already combined elements before providing them to competing carriers, except on request." The Commission has previously held that it will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if "basic TELRIC principles are violated **or** the state commission

<sup>142</sup> *Id.* In *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000), the Eighth Circuit had vacated the Commission's "additional combinations" rules (47 C.F.R. Sections 51.315(c)-(f)). However, on May 13, 2002, the Supreme Court reversed the Eighth Circuit with respect to those rules and remanded the case to the court of appeals "for further proceedings consistent with this opinion." *Verizon Communications Inc. v. FCC*, 122 S.Ct. 1646, 1687. See also *id.* at 1683-87. In response, the Eighth Circuit, on August 21, 2002, vacated its prior opinion insofar as it had vacated the pertinent combinations rules and denied the petitions for review with respect to those rules. *Iowa Utilities Board v. FCC*, 8th Circuit Nos. 96-3321, *et al.*, Judgment, filed August 21, 2002.). See also *Competitive Telecommunications Association v. FCC*, 309 F.3d 8 (2002) (affirming the Commission's interim decision to limit the ability of competitive local exchange carriers to gain access to a network element combination known as the enhanced extended link).

<sup>143</sup> 47 U.S.C. § 271(c)(2)(B)(ii).

<sup>144</sup> *Id.* § 251(c)(3)

<sup>145</sup> 47 U.S.C. § 252(d)(1).

<sup>146</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 1584446, paras. 674-79; 47 C.F.R. §§ 51.501 *et seq.*; see also *Deployment & Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, and *Implementation & the Local Competition Provisions & the Telecommunications Act & 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Report and Order, 14 FCC Rcd 20912, 20974, para. 135 (*Line Sharing Order*) (concluding that states should set the prices for line sharing as a new network element in the same manner as the state sets prices for other UNEs).

<sup>147</sup> See 47 C.F.R. § 51.315(b).

makes clear errors in factual findings on matters *so* substantial that the end result falls outside the range that the reasonable application of TELRIC principles would **produce**.”<sup>148</sup>

46. Although the U.S. Court of Appeals for the Eighth Circuit stayed the Commission’s pricing rules in 1996,<sup>149</sup> the Supreme Court restored the Commission’s pricing authority on January 25, 1999, and remanded to the Eighth Circuit for consideration of the merits of the challenged rules.” On remand from the Supreme Court, the Eighth Circuit concluded that while TELRIC is an acceptable method for determining costs, certain specific requirements contained within the Commission’s pricing rules were contrary to Congressional intent.” The Eighth Circuit stayed the issuance of its mandate pending review by the Supreme Court.<sup>152</sup> The Supreme Court, on May 13, 2002, upheld the Commission’s forward-looking pricing methodology in determining costs of UNEs and “reverse[d] the Eighth Circuit’s judgment insofar as it invalidated TELRIC **as a** method for setting rates under the Act.”<sup>153</sup> Accordingly, the Commission’s pricing rules remain in effect.

### C. Checklist Item 3 – Poles, Ducts, Conduits and Rights of Way

47. Section 271(c)(2)(B)(iii) requires BOCs to provide “[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the [BOC] at just and reasonable rates in accordance with the requirements of section 224.”” Section 224(f)(1) states

<sup>148</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4084, para. 244; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6266, para. 59.

<sup>149</sup> *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 800, 804, 805-06 (8<sup>th</sup> Cir. 1997).

<sup>150</sup> *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). In reaching its decision, the Court acknowledged that section 201(b) “explicitly grants the FCC jurisdiction to make rules governing matters to which the 1996 Act applies.” *Id.* at 380. Furthermore, the Court determined that section 251(d) also provides evidence of an express jurisdictional grant by requiring that “the Commission [shall] complete all actions necessary to establish regulations to implement the requirements of this section.” *Id.* at 382. The Court also held that the pricing provisions implemented under the Commission’s rulemaking authority do not inhibit the establishment of rates by the states. The Court concluded that the Commission has jurisdiction to design a pricing methodology to facilitate local competition under the 1996 Act, including pricing for interconnection and unbundled access, as “it is the States that will apply those standards and implement that methodology, determining the concrete result.” *Id.*

<sup>151</sup> *Iowa Utils. Bd. v. FCC*, 219 F.3d 744 (8<sup>th</sup> Cir. 2000), *petition for cert. granted sub nom. Verizon Communications v. FCC*, 121 S. Ct. 877 (2001).

<sup>152</sup> *Iowa Utils. Bd. v. FCC*, No. 96-3321 *et al.* (8<sup>th</sup> Cir. Sept. 25, 2000)

<sup>153</sup> *Verizon v. FCC*, 122 S.Ct. at 1679. On August 21, 2002, the Eighth Circuit implemented the Supreme Court’s mandate with respect to the Commission’s TELRIC pricing rule by vacating its prior opinion insofar as it had invalidated that rule and by denying the petitions for review of that rule. *Iowa Utilities Board v. FCC*, 8th Circuit Nos. 96-3321, *et al.*, Judgment, filed August 21, 2002.

<sup>154</sup> 47 U.S.C. § 271(c)(2)(B)(iii). As originally enacted, section 224 was intended to address obstacles that cable operators encountered in obtaining access to poles, ducts, conduits, or rights-of-way owned or controlled by utilities. The 1996 Act amended section 224 in several important respects to ensure that telecommunications carriers as well (continued.. ..)



that “[a] utility shall provide a cable television system **or** any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, **or** right-of-way owned **or** controlled by it.”<sup>155</sup> Notwithstanding this requirement, section 224(f)(2) permits a utility providing electric service to deny access to its poles, ducts, conduits, and rights-of-way, on a nondiscriminatory basis, “where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes.”<sup>156</sup> Section 224 also contains two separate provisions governing the maximum rates that a utility may charge for “pole attachments.””” Section 224(b)(1) states that the Commission shall regulate the rates, terms, and conditions governing **pole** attachments to ensure that they are “just and reasonable.”<sup>158</sup> Notwithstanding this general grant of authority, section 224(c)(1) states that “[n]othing in [section 224] shall be construed to apply to, or to give the Commission jurisdiction with respect to the rates, terms, and conditions, or access to poles, ducts, conduits and rights-of-way as provided in [section 224(f)], for pole attachments in any case where such matters are regulated by a State.”<sup>159</sup> As of 1992, nineteen states, including Connecticut, had certified to the Commission that they regulated the rates, terms, and conditions for **pole attachments**.<sup>160</sup>

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as cable operators have access to poles, ducts, conduits, or rights-of-way owned or controlled by utility companies, including LECs. *Second BellSouth Louisiana Order*. 13 FCC Rcd at 20706, n.574.

<sup>155</sup> 47 U.S.C. § 224(f)(1). Section 224(a)(1) defines “utility” to include any entity, including a LEC, that controls “poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications.” 47 U.S.C. § 224(a)(1).

<sup>156</sup> 47 U.S.C. § 224(f)(2). In the *Local Competition First Report and Order*, the Commission concluded that, although the statutory exception enunciated in section 224(f)(2) appears to be limited to utilities providing electrical service, LECs should also be permitted to deny access to their poles, ducts, conduits, and rights-of-way because of insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes, provided the assessment of such factors is done in a nondiscriminatory manner. *Local Competition First Report and Order*, 11 FCC Rcd at 16080-81, paras. 1175-77.

<sup>157</sup> Section 224(a)(4) defines “pole attachment” as “any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility.” 47 U.S.C. § 224(a)(4).

<sup>158</sup> 47 U.S.C. § 224(b)(1)

<sup>159</sup> *Id.* § 224(c)(1). The 1996 Act extended the Commission’s authority to include not just rates, terms, and conditions, but also the authority to regulate nondiscriminatory access to poles, ducts, conduits, and rights-of-way. *Local Competition First Report and Order*, 11 FCC Rcd at 16104, para. 1232; 47 U.S.C. § 224(f). Absent state regulation of terms and conditions of nondiscriminatory attachment access, the Commission retains jurisdiction. *Local Competition First Report and Order*, 11 FCC Rcd at 16104, para. 1232; 47 U.S.C. § 224(c)(1); *see also Bell Atlantic New York Order*, 15 FCC Rcd at 4093, para. 264.

<sup>160</sup> *See States That Have Certified That They Regulate Pole Attachments*, Public Notice. 7 FCC Rcd 1498 (1992); 47 U.S.C. § 224(f).

#### D. Checklist Item 4 – Unbundled Local Loops

48. Section 271(c)(2)(B)(iv) of the Act, item 4 of the competitive checklist, requires that a BOC provide “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”<sup>161</sup> The Commission has defined the loop as a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the demarcation point at the customer premises. This definition includes different types of loops, including two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide service such as ISDN, ADSL, HDSL, and DS1-level signals.<sup>162</sup>

49. In order to establish that it is “providing” unbundled local loops in compliance with checklist item 4, a BOC must demonstrate that it has a concrete and specific legal obligation to furnish loops and that it is currently doing so in the quantities that competitors demand and at an acceptable level of quality. A BOC must also demonstrate that it provides nondiscriminatory access to unbundled loops.<sup>163</sup> Specifically, the BOC must provide access to any functionality of the loop requested by a competing carrier unless it is not technically feasible to condition the loop facility to support the particular functionality requested. In order to provide the requested loop functionality, such as the ability to deliver xDSL services, the BOC may be required to take affirmative steps to condition existing loop facilities to enable competing carriers to provide services not currently provided over the facilities. The BOC must provide competitors with access to unbundled loops regardless of whether the BOC uses digital loop carrier (DLC) technology or similar remote concentration devices for the particular loops sought by the competitor.

50. On December 9, 1999, the Commission released the *Line Sharing Order*, which introduced new rules requiring BOCs to offer requesting carriers unbundled access to the high-frequency portion of local loops (HFPL).<sup>164</sup> HFPL is defined as “the frequency above the voiceband on a copper loop facility that is being used to carry traditional POTS analog circuit-switched voiceband transmissions.” This definition applies whether a BOC’s voice customers are served by copper or by digital loop carrier equipment. Competing carriers should have access

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<sup>161</sup> 47 U.S.C. § 271(c)(2)(B)(iv).

<sup>162</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15691, para. 380; *IJNE Remand Order*, 15 FCC Rcd at 3772-73, paras. 166-67, n.301 (retaining definition of the local loop from the *Local Competition First Report and Order*, but replacing the phrase “network interconnection device” with “demarcation point,” and making explicit that dark fiber and loop conditioning are among the features, functions and capabilities of the loop).

<sup>163</sup> *SWBT Texas Order*, 15 FCC Rcd at 18481-81, para. 248; *Bell Atlantic New York Order*, 15 FCC Rcd at 4095, para. 269; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20637, para. 185.

<sup>164</sup> *See Line Sharing Order*, 14 FCC Rcd at 20924-27, paras. 20-27; *see also* n.63 at C-12 *supra*

to the HFPL at either a central office or at a remote terminal. However, the HFPL network element is *only* available on a copper loop facility.<sup>165</sup>

51. To determine whether a BOC makes line sharing available consistent with Commission rules set out in the *Line Sharing Order*, the Commission examines categories of performance measurements identified in the *Bell Atlantic New York* and *SWBT Texas Orders*. Specifically, a successful BOC applicant could provide evidence of BOC-caused missed installation due dates, average installation intervals, trouble reports within 30 days of installation, mean time to repair, trouble report rates, and repeat trouble report rates. In addition, a successful BOC applicant should provide evidence that its central offices are operationally ready to handle commercial volumes of line sharing and that it provides competing carriers with nondiscriminatory access to the pre-ordering and ordering OSS functions associated with the provision of line shared loops, including access to loop qualification information and databases.

52. Section 271(c)(2)(B)(iv) also requires that a BOC demonstrate that it makes line splitting available to competing carriers so that competing carriers may provide voice and data service over a single loop.<sup>166</sup> In addition, a BOC must demonstrate that a competing carrier, either alone or in conjunction with another carrier, is able to replace an existing UNE-P configuration used to provide voice service with an arrangement that enables it to provide voice and data service to a customer. To make such a showing, a BOC must show that it has a legal obligation to provide line splitting through rates, terms, and conditions in interconnection agreements and that it offers competing carriers the ability to order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment, and combine it with unbundled switching and shared transport.<sup>167</sup>

### E. Checklist Item 5 – Unbundled Local Transport

53. Section 271(c)(2)(B)(v) of the competitive checklist requires a BOC to provide “[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.”<sup>168</sup> The Commission has required that BOCs provide both dedicated and shared transport to requesting carriers.<sup>169</sup> Dedicated transport consists of BOC transmission

<sup>165</sup>

*See Deployment of Wireline Services offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, 16 FCC Rcd 2101,2106-07, para. 10 (2001).

<sup>166</sup> *See generally SWBT Texas Order*, 15 FCC Rcd at 18515-17, paras. 323-329 (describing line splitting); 47 C.F.R. § 51.703(c) (requiring that incumbent LECs provide competing carriers with access to unbundled loops in a manner that allows competing carriers “to provide any telecommunications service that can be offered by means of that network element”).

<sup>167</sup> *See SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6348, para. 220

<sup>168</sup> 47 U.S.C. § 271(c)(2)(B)(v)

<sup>169</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20719, para. 201.

facilities dedicated to a particular customer **or** carrier that provide telecommunications between wire centers owned by BOCs **or** requesting telecommunications carriers, **or** between switches owned by BOCs **or** requesting telecommunications carriers.<sup>170</sup> Shared transport consists of transmission facilities shared by more than one carrier, including the BOC, between end office switches, between end office switches and tandem switches, and between tandem switches. in the BOC's network.”

## F. Checklist Item 6 – Unbundled Local Switching

**54.** Section 271(c)(2)(B)(vi) of the 1996 Act requires a BOC to provide “[l]ocal switching unbundled from transport, local loop transmission, **or** other services.”” In the *Second BellSouth Louisiana Order*, the Commission required BellSouth to provide unbundled local switching that included line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch.<sup>173</sup> The features, functions, and capabilities of the switch include the basic switching function as well as the same basic capabilities that **are** available to the incumbent LEC's customers.<sup>174</sup> Additionally, local switching includes all vertical features that the switch is capable of providing, as well as any technically feasible customized routing functions.<sup>175</sup>

<sup>170</sup>

*Id.* A BOC has the following obligations with respect to dedicated transport: (a) provide unbundled access to dedicated transmission facilities between BOC central offices or between such offices and serving wire centers (SWCs); between SWCs and interexchange carriers points of presence (POPs); between tandem switches and SWCs, end offices or tandems of the BOC, and the wire centers of BOCs and requesting carriers; (b) provide all technically feasible transmission capabilities such as **DS1**, **DS3**, and Optical Carrier levels that the competing carrier could use to provide telecommunications; (c) not limit the facilities to which dedicated interoffice transport facilities are connected, provided such interconnections are technically feasible, or restrict the use of unbundled transport facilities; and (d) to the extent technically feasible, provide requesting carriers with access to digital cross-connect system functionality in the same manner that the BOC offers such capabilities to interexchange carriers that purchase transport services. *Id.* at 207 19.

<sup>171</sup>

*Id.* at 20719, n.650. The Commission also found that a BOC has the following obligations with respect to shared transport: (a) provide shared transport in a way that enables the traffic of requesting carriers to be carried on the same transport facilities that a BOC uses for its own traffic; (b) provide shared transport transmission facilities between end office switches, between its end office and tandem switches, and between tandem switches in its network; (c) permit requesting carriers that purchase unbundled shared transport and unbundled switching to use the same routing table that is resident in the BOC's switch; and (d) permit requesting carriers to use shared (or dedicated) transport as an unbundled element to carry originating access traffic from, and terminating traffic to, customers to whom the requesting carrier is also providing local exchange service. *Id.* at 20720, n.652.

<sup>172</sup>

47 U.S.C. § 271(c)(2)(B)(vi); see *also* *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20722. A switch connects end user lines to other end user lines. and connects end user lines to trunks used for transporting a call to another central office or to a long-distance carrier. Switches can also provide end users with “vertical features” such as call waiting, call forwarding, and caller ID, and can direct a call to a specific trunk, such as to a competing carrier's operator services.

<sup>173</sup>

*Second BellSouth Louisiana Order*, 13 FCC Rcd at 20722, para. 207

<sup>174</sup>

*id.*

<sup>175</sup>

*Id.* at 20722-23, para. 207.

**55.** Moreover, in the *Second BellSouth Louisiana Order*, the Commission required BellSouth to permit competing carriers to purchase UNEs, including unbundled switching, in a manner that permits a competing carrier to offer, and bill **for**, exchange access and the termination of local **traffic**.<sup>176</sup> The Commission also stated that measuring daily customer usage for billing purposes requires essentially the same OSS functions for both competing carriers and incumbent LECs, and that a BOC must demonstrate that it is providing equivalent access to billing information.” Therefore, the ability of a BOC to provide billing information necessary for a competitive LEC to bill for exchange access and termination of local traffic is an aspect of unbundled local **switching**.<sup>178</sup> Thus, there is an overlap between the provision of unbundled local switching and the provision of the OSS billing **function**.<sup>179</sup>

**56.** To comply with the requirements of unbundled local switching, a BOC must also make available trunk ports on a shared basis and routing tables resident in the BOC’s switch, as necessary to provide access to shared transport functionality.” In addition, a BOC may not limit the ability of competitors to use unbundled local switching to provide exchange access by requiring competing carriers to purchase a dedicated trunk from an interexchange carrier’s point of presence to a dedicated trunk port on the local switch.”

**G. Checklist Item 7 – 911/E911 Access and Directory Assistance/Operator Services**

**57.** Section 271(c)(2)(B)(vii) of the Act requires a BOC to provide “[n]ondiscriminatory access to – (I) 911 and E911 services.”<sup>182</sup> In the *Ameritech Michigan Order*, the Commission found that “section 271 requires a BOC to provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, *i.e.*, at parity.”” Specifically, the Commission found that a BOC “must maintain the 911 database entries for competing LECs with the **same** accuracy and reliability that it maintains the database entries for

<sup>176</sup> *Id.* at 20723, para. 208

<sup>177</sup> *Id.* at 20723, para. 208 (citing *Ameritech Michigan Order*, 12 FCC Rcd at 20619, para. 140)

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.* at 20723, para. 209 (citing the *Ameritech Michigan Order*, 12 FCC Rcd at 20705, para. 306).

<sup>181</sup> *Id.* (citing the *Ameritech Michigan Order*, 12 FCC Rcd at 20714-15, paras. 324-25)

<sup>182</sup> 47 U.S.C. § 271(c)(2)(B)(vii). 911 and E911 services transmit calls from end users to emergency personnel. It is critical that a BOC provide competing carriers with accurate and nondiscriminatory access to 911/E911 services so that these carriers’ customers are able to reach emergency assistance. Customers use directory assistance and operator services to obtain customer listing information and other call completion services.

<sup>183</sup> *Ameritech Michigan Order*, 12 FCC Rcd at 20679, para. 256

its own customers.””” For facilities-based carriers, the BOC must provide “unbundled access to [its] 911 database and 911 interconnection, including the provision of dedicated **trunks** from the requesting carrier’s switching facilities to the 911 control office at parity with what [the BOC] provides to **itself**.”<sup>185</sup> Section 271(c)(2)(B)(vii)(II) and section 271(c)(2)(B)(vii)(III) require a BOC to provide nondiscriminatory access to “directory assistance services to allow the other carrier’s customers to obtain telephone numbers” and “operator call completion services.” **respectively**.<sup>186</sup> Section 251(b)(3) of the Act imposes on each LEC “the duty to permit all [competing providers of telephone exchange service and telephone toll service] to have nondiscriminatory access to . . . operator services, directory assistance, and directory listing, with no unreasonable dialing delays.”<sup>187</sup> The Commission concluded in the **Second BellSouth Louisiana Order** that a BOC must be in compliance with the regulations implementing section 251(b)(3) to satisfy the requirements of sections 271(c)(2)(B)(vii)(II) and 271(c)(2)(B)(vii)(III).<sup>188</sup> In the **Local Competition Second Report and Order**, the Commission held that the phrase “nondiscriminatory access to directory assistance and directory listings” means that “the customers of all telecommunications service providers should be able to access each LEC’s

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<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> 47 U.S.C. §§ 271(c)(2)(B)(vii)(II), (III)

<sup>187</sup> *Id.* § 251(b)(3). The Commission implemented section 251(b)(3) in the **Local Competition Second Report and Order**, 47 C.F.R. § 51.217; **Implementation of the Local Competition Provisions of the Telecommunications Act of 1996**, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) (**Local Competition Second Report and Order**) *vacated in part sub nom. People of the State of California v. FCC*, 124 F.3d 934 (8th Cir. 1997), *overruled in part, AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999); *see also Implementation of the Telecommunications Act of 1996: Provision of Directory Listings Information under the Telecommunications Act of 1934*, Notice of Proposed Rulemaking, 14 FCC Rcd 15550 (1999) (**Directory Listings Information NPRM**).

<sup>188</sup> While both sections 251(b)(3) and 271(c)(2)(B)(vii)(II) refer to nondiscriminatory access to “directory assistance,” section 251(b)(3) refers to nondiscriminatory access to “operator services,” while section 271(c)(2)(B)(vii)(III) refers to nondiscriminatory access to “operator call completion services.” 47 U.S.C. §§ 251(b)(3), 271(c)(2)(B)(vii)(III). The term “operator call completion services” is not defined in the Act, nor has the Commission previously defined the term. However, for section 251(b)(3) purposes, the term “operator services” was defined as meaning “any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call.” **Local Competition Second Report and Order**, 11 FCC Rcd at 19448, para. 110. In the same order the Commission concluded that busy line verification, emergency interrupt, and operator-assisted directory assistance are forms of “operator services,” because they assist customers in arranging for the billing or completion (or both) of a telephone call. *Id.* at 19449, para. 111. All of these services may be needed or used to place a call. For example, if a customer tries to direct dial a telephone number and constantly receives a busy signal, the customer may contact the operator to attempt to complete the call. Since billing is a necessary part of call completion, and busy line verification, emergency interrupt, and operator-assisted directory assistance can all be used when an operator completes a call, the Commission concluded in the **Second BellSouth Louisiana Order** that for checklist compliance purposes, “operator call completion services” is a subset of or equivalent to “operator service.” **Second BellSouth Louisiana Order**, 13 FCC Rcd at 20740, n.763. As a result, the Commission uses the nondiscriminatory standards established for operator services to determine whether nondiscriminatory access is provided.

directory assistance service and obtain a directory listing on a nondiscriminatory basis, notwithstanding: (1) the identity of a requesting customer's local telephone service provider; **or** (2) **the** identity of the telephone service provider for a customer whose directory listing is **requested**."<sup>189</sup> The Commission concluded that nondiscriminatory access to the dialing patterns of 4-1-1 and 5-5-5-1-2-1-2 to access directory assistance were technically feasible, and would **continue**.<sup>190</sup> The Commission specifically held that the phrase "nondiscriminatory access to operator services" means that "a telephone service customer, regardless of the identity of his or **her** local telephone service provider, must be able to connect to a local operator by dialing '0,' or '0 plus' the desired telephone **number**."<sup>191</sup>

**58.** Competing carriers may provide operator services and directory assistance by reselling **the** BOC's services, outsourcing service provision to a third-party provider, or using their own personnel and facilities. The Commission's **rules** require BOCs to permit competitive LECs wishing to resell the BOC's operator services and directory assistance to request the BOC to brand **their** calls."<sup>192</sup> Competing carriers wishing to provide operator services or directory assistance using their own or a third party provider's facilities and personnel must be able to obtain directory listings either by obtaining directory information on a "read only" or "per dip" basis from the BOC's directory assistance database. **or** by creating their **own** directory assistance database by obtaining the subscriber listing information in the BOC's database.<sup>193</sup> Although the

<sup>189</sup> 47 C.F.R. § 51.217(c)(3); *Local Competition Second Report and Order*, 11 FCC Rcd at 19456-58, paras. 130-35. The *Local Competition Second Report and Order's* interpretation of section 251(b)(3) is limited "to access to each LEC's directory assistance service." *Id.* at 19456, para. 135. However, section 271(c)(2)(B)(vii) is not limited to the LEC's systems but requires "nondiscriminatory access to . . . directory assistance to allow the other carrier's customers to obtain telephone numbers." 47 U.S.C. § 271(c)(2)(B)(vii). Combined with the Commission's conclusion that "incumbent LECs must unbundle the facilities and functionalities providing operator services and directory assistance from resold services and other unbundled network elements to the extent technically feasible," *Local Competition First Report and Order*, 11 FCC Rcd at 15772-73, paras. 535-37, section 271(c)(2)(B)(vii)'s requirement should be understood to require the BOCs to provide nondiscriminatory access to the directory assistance service provider selected by the customer's local service provider, regardless of whether the competitor; provides such services itself; selects the BOC to provide such services; or chooses a third party to provide such services. See *Directory Listings Information NPKM*.

<sup>190</sup> *Local Competition Second Report and Order*, 11 FCC Rcd at 19464, para. 151

<sup>191</sup> *Id.* at 19464, para. 151.

<sup>192</sup> 47 C.F.R. § 51.217(d); *Local Competition Second Report and Order*, 11 FCC Rcd at 19463, para. 148. For example, when customers call the operator or calls for directory assistance, they typically hear a message, such as "thank you for using XYZ Telephone Company." Competing carriers may use the BOC's brand, request the BOC to brand the call with the competitive carriers name or request that the BOC not brand the call at all. 47 C.F.R. § 51.217(d).

<sup>193</sup> 47 C.F.R. § 51.217(C)(3)(ii); *Local Competition Second Report and Order*, 11 FCC Rcd at 19460-61, paras. 141-44; *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996. Provision of Directory Listing Information Under the Communications Act of 1934, as amended*, Third Report and Order. Second Order on Reconsideration, and Notice of Proposed Rulemaking, 14 FCC Rcd 15550, 15630-31, paras. 152-54 (1999); *Provision of Directory Listing* (continued....)

Commission originally concluded that BOCs must provide directory assistance and operator services on an unbundled basis pursuant to sections 251 and 252, the Commission removed directory assistance and operator services from the list of required UNEs in the *UNE Remand Order*.<sup>194</sup> Checklist item obligations that do not fall within a BOC's obligations under section 251(c)(3) are not subject to the requirements of sections 251 and 252 that rates be based on forward-looking economic costs.<sup>195</sup> Checklist item obligations that do not fall within a BOC's UNE obligations, however, still must be provided in accordance with sections 201(b) and 202(a), which require that rates and conditions be just and reasonable, and not unreasonably discriminatory.<sup>196</sup>

## H. Checklist Item 8 – White Pages Directory Listings

59. Section 271(c)(2)(B)(viii) of the 1996 Act requires a BOC to provide “[w]hite pages directory listings for customers of the other carrier’s telephone exchange service.”<sup>197</sup> Section 251(b)(3) of the 1996 Act obligates all LECs to permit competitive providers of telephone exchange service and telephone toll service to have nondiscriminatory access to directory listing.<sup>198</sup>

60. In the *Second BellSouth Louisiana Order*, the Commission concluded that, “consistent with the Commission’s interpretation of ‘directory listing’ as used in section 251(b)(3), the term ‘white pages’ in section 271(c)(2)(B)(viii) refers to the local alphabetical directory that includes the residential and business listings of the customers of the local exchange provider.”<sup>199</sup> The Commission further concluded, “the term ‘directory listing,’ as used in this section, includes, at a minimum, the subscriber’s name, address, telephone number, or any combination thereof.”<sup>200</sup> The Commission’s *Second BellSouth Louisiana Order* also held that a

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*Information Under the Communications Act of 1934, as amended*, First Report and Order, 16 FCC Rcd 2736, 2743-51 (2001).

<sup>194</sup> *UNE Remand Order*, 15 FCC Rcd at 3891-92, paras. 441-42

<sup>195</sup> *UNE Remand Order*, 15 FCC Rcd at 3905, para. 470; see generally 47 U.S.C. §§ 251-52; see also 47 U.S.C. § 252(d)(1)(A)(i) (requiring UNE rates to be “based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the ... network element”).

<sup>196</sup> *UNE Remand Order*, 15 FCC Rcd at 3905-06, paras. 470-73; see also 47 U.S.C. §§ 201(b), 202(a).

<sup>197</sup> 47 U.S.C. § 271(c)(2)(B)(viii).

<sup>198</sup> *Id.* § 251(b)(3).

<sup>199</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20748, para. 255.

<sup>200</sup> *Id.* In the *Second BellSouth Louisiana Order*, the Commission stated that the definition of “directory listing” was synonymous with the definition of “subscriber list information.” *Id.* at 20747 (citing the *Local Competition Second Report and Order*, 11 FCC Rcd at 19458-59). However, the Commission’s decision in a later proceeding obviates this comparison, and supports the definition of directory listing delineated above. See *Implementation of the Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115, Third Report and Order; *Implementation of the Local Competition Provisions* (continued....)



BOC satisfies the requirements of checklist item 8 by demonstrating that it: (1) provided nondiscriminatory appearance and integration of white page directory listings to competitive LECs' customers; and (2) provided white page listings for competitors' customers with the same accuracy and reliability that it provides its **own** customers.”

## I. Checklist Item 9 – Numbering Administration

61. Section 271(c)(2)(B)(ix) of the 1996 Act requires a BOC to provide “nondiscriminatory access to telephone numbers for assignment to the other carrier’s telephone exchange service customers,” until “the date by which telecommunications numbering administration, guidelines, plan, **or** rules are established.”” The checklist mandates compliance with “such guidelines, plan, **or** rules” after they have been established.” A BOC must demonstrate that it adheres to industry numbering administration guidelines and Commission

## J. Checklist Item 10 – Databases and Associated Signaling

62. Section 271(c)(2)(B)(x) of the 1996 Act requires a BOC to provide “nondiscriminatory access to databases and associated signaling necessary for call routing and completion.”<sup>205</sup> In the *Second BellSouth Louisiana Order*, the Commission required BellSouth to demonstrate that it provided requesting carriers with nondiscriminatory access to: “(1) signaling networks, including signaling links and signaling transfer points; (2) certain call-related databases necessary for call routing and completion, **or** in the alternative, a means of physical access to the signaling transfer point linked to the unbundled database; and (3) Service Management Systems (SMS).”<sup>206</sup> The Commission also required BellSouth to design, create, test, and deploy Advanced Intelligent Network (AIN) based services at the SMS through a

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*of the Telecommunications Act of 1996*, CC Docket No. 96-98, Second Order on Reconsideration; *Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended*, CC Docket No. 99-273, FCC 99-227, Notice of Proposed Rulemaking, para. 160 (rel. Sept. 9, 1999).

<sup>201</sup> *Id.*

<sup>202</sup> 47 U.S.C. § 271(c)(2)(B)(ix).

<sup>203</sup> *Id.*

<sup>204</sup> See *Second Bell South Louisiana Order*, 13 FCC Rcd at 20752; see also *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000); *Numbering Resource Optimization*, Second Report and Order, Order on Reconsideration in CC Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Docket Nos. 96-98; 99-200 (rel. Dec. 29, 2000); *Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 (rel. Dec. 28, 2001).

<sup>205</sup> 47 U.S.C. § 271(c)(2)(B)(x).

<sup>206</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20753, para. 267.

Service Creation Environment (SCE).<sup>207</sup> In the *Local Competition First Report and Order*, the Commission defined call-related databases as databases, other than operations support systems, that **are** used in signaling networks for billing and collection **or** the transmission, routing, **or** other provision of telecommunications **service**.<sup>208</sup> At that time the Commission required incumbent LECs to provide unbundled access to their call-related databases, including but not limited to: the Line Information Database (LIDB), the Toll **Free** Calling database, the Local Number Portability database, and Advanced Intelligent Network databases.” In the *UNE Remand Order*, the Commission clarified that the definition of call-related databases “includes, but is not limited to, the calling name (CNAM) database, as well as the 911 and E911 databases.””

### K. Checklist Item 11 – Number Portability

63. Section 271(c)(2)(B) of the 1996 Act requires a BOC to comply with the number portability regulations adopted by the Commission pursuant to section 251.<sup>211</sup> Section 251(b)(2) requires all LECs “to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.”” The 1996 Act defines number portability as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, **or** convenience when switching from one telecommunications carrier to another.”” In order to prevent the cost of number portability from thwarting local competition, Congress enacted section 251(e)(2), which requires that “[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.”” Pursuant to these statutory provisions, the Commission requires LECs to offer interim number portability “to the extent technically feasible.”” The Commission also requires LECs to gradually replace interim number

<sup>207</sup> *Id.* at 20755-56, para. 272

<sup>208</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15741, n.1126; *UNE Remand Order*, 15 FCC Rcd at 3875, para. 403.

<sup>209</sup> *Id.* at 15741-42, para. 484

<sup>210</sup> *UNE Remand Order*, 15 FCC Rcd at 3875, para. 403

<sup>211</sup> 47 U.S.C. § 271(c)(2)(B)(xii)

<sup>212</sup> *Id.* at § 251(b)(2)

<sup>213</sup> *Id.* at § 153(30).

<sup>214</sup> *Id.* at § 251(e)(2); *see also Second Bell South Louisiana Order*, 13 FCC Rcd at 20757, para. 274; In *the Matter of Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11702-04 (1998) (*Third Number Portability Order*); In *the Matter of Telephone Number Portability*, Fourth Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 16459, 16460, 16462-65, paras. 1, 6-9 (1999) (*Fourth Number Portability Order*).

<sup>215</sup> *Fourth Number Portability Order*, 15 FCC Rcd at 16465, para. 10; *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8409-12, paras. 110-16 (1996) (*First Number Portability Order*); *see also* 47 U.S.C. § 251(b)(2).

portability with permanent number **portability**.<sup>216</sup> The Commission has established guidelines for states to follow in mandating a competitively neutral cost-recovery mechanism for interim number **portability**,<sup>217</sup> and created a competitively neutral cost-recovery mechanism for long-term number **portability**.<sup>218</sup>

**L. Checklist Item 12 – Local Dialing Parity**

**64.** Section 271(c)(2)(B)(xii) requires a BOC to provide “[n]ondiscriminatory access to such services or information **as are** necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).”<sup>219</sup> Section 251(b)(3) imposes upon all LECs “[t]he duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service with no unreasonable dialing delays.””” Section 153(15) of the Act defines “dialing parity” as follows:

[A] person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer’s designation.””

**65.** The **rules** implementing section 251(b)(3) provide that customers of competing carriers must be able to dial the **same** number of digits the BOC’s customers dial to complete a local telephone call.”” Moreover, customers of competing carriers must not otherwise suffer

<sup>216</sup> See 47 C.F.R. §§ 52.3(b)-(f); *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *First Number Portability Order*, 11 FCC Rcd at 8355, 8399-8404, paras. 3, 91; *Third Number Portability Order*, 13 FCC Rcd at 11708-12, paras. 12-16.

<sup>217</sup> See 47 C.F.R. § 52.29; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *First Number Portability Order*, 11 FCC Rcd at 8417-24, paras. 127-40.

<sup>218</sup> See 47 C.F.R. §§ 52.32, 52.33; *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20758, para. 275; *Third Number Portability Order*, 13 FCC Rcd at 11706-07, para. 8; *Fourth Number Portability Order* at 16464-65, para. 9.

<sup>219</sup> Based on the Commission’s view that section 251(b)(3) does not limit the duty to provide dialing parity to any particular form of dialing parity (*i.e.*, international, interstate, intrastate, or local), the Commission adopted rules in August 1996 to implement broad guidelines and minimum nationwide standards for dialing parity. *Local Competition Second Report and Order*, 11 FCC Rcd at 19407; *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 95-185, Further Order On Reconsideration, FCC 99-170 (rel. July 19, 1999).

<sup>220</sup> 47 U.S.C. § 251(b)(3)

<sup>221</sup> *Id.* § 153(15).

<sup>222</sup> 47 C.F.R. §§ 51.205, 51.207.

inferior quality service, such as unreasonable dialing delays, compared to the BOC's customers."

### M. Checklist Item 13 – Reciprocal Compensation

66. Section 271(c)(2)(B)(xiii) of the Act requires that a BOC enter into "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2)."<sup>224</sup> In turn, pursuant to section 252(d)(2)(A), "a state commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls."<sup>225</sup>

### N. Checklist Item 14 – Resale

67. Section 271(c)(2)(B)(xiv) of the Act requires a BOC to make "telecommunications services . . . available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3)."<sup>226</sup> Section 251(c)(4)(A) requires incumbent LECs "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." Section 252(d)(3) requires state commissions to "determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier."<sup>228</sup> Section 251(c)(4)(B) prohibits "unreasonable or discriminatory conditions or limitations" on service resold under section 251(c)(4)(A).<sup>229</sup> Consequently, the Commission concluded in the *Local Competition First Report and Order* that resale restrictions are presumed to be unreasonable unless the LEC proves to the state commission that the restriction is reasonable and nondiscriminatory.<sup>230</sup> If an incumbent LEC makes a service available only to a

<sup>223</sup> See 47 C.F.R. § 51.207 (requiring same number of digits to be dialed); *Local Competition Second Report and Order*, 11 FCC Rcd at 19400, 19403.

<sup>224</sup> 47 U.S.C. § 271(c)(2)(B)(xiii)

<sup>225</sup> *Id.* § 252(d)(2)(A)

<sup>226</sup> *Id.* § 271(c)(2)(B)(xiv)

<sup>227</sup> *Id.* § 251(c)(4)(A).

<sup>228</sup> *Id.* § 252(d)(3).

<sup>229</sup> *Id.* § 251(c)(4)(B).

<sup>230</sup> *Local Competition First Report and Order*, 11 FCC Rcd at 15966, para. 939; 47 C.F.R. § 51.613(b). "The Eighth Circuit acknowledged the Commission's authority to promulgate such rules, and specifically upheld the sections of the Commission's rules concerning resale of promotions and discounts in *Iowa Utilities Board*. *Iowa* (continued...)"

specific category of **retail** subscribers, however, a state commission may prohibit a carrier that obtains the service pursuant to section 251(c)(4)(A) from offering the service to a different category of **subscribers**.<sup>231</sup> If a state creates such a limitation, it must do so consistent with requirements established by the Federal Communications Commission.<sup>232</sup> In accordance with sections 271(c)(2)(B)(ii) and 271(c)(2)(B)(xiv), a BOC must also demonstrate that it provides nondiscriminatory access to operations support systems for the resale of its retail telecommunications **services**.<sup>233</sup> The obligations of section 251(c)(4) apply to the retail telecommunications services offered by a BOC's advanced services affiliate."<sup>234</sup>

## V. COMPLIANCE WITH SEPARATE AFFILIATE REQUIREMENTS – SECTION 272

68. . Section 271(d)(3)(B) requires that the Commission shall not approve a BOC's application to provide interLATA services unless the BOC demonstrates that the "requested authorization will be carried out in accordance with the requirements of section 272."<sup>235</sup> The Commission set standards for compliance with section 272 in the *Accounting Safeguards Order* and the *Non-Accounting Safeguards Order*.<sup>236</sup> Together, these safeguards discourage and facilitate the detection of improper cost allocation and cross-subsidization between the BOC and

(Continued from previous page)

*Utils. Bd. v. FCC*, 120 F.3d at 818-19, *aff'd in part and remanded on other grounds*, *AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). See also 47 C.F.R. §§ 51.613-51.617.

<sup>231</sup> 47 U.S.C. § 251(c)(4)(B)

<sup>232</sup> *Id.*

<sup>233</sup> See, e.g., *Bell Atlantic New York Order*, 15 FCC Rcd at 4046-48, paras. 178-81 (Bell Atlantic provides nondiscriminatory access to its OSS ordering functions for resale services and therefore provides efficient competitors a meaningful opportunity to compete).

<sup>234</sup> See *Verizon Connecticut Order*, 16 FCC Rcd 14147, 14160-63, paras. 27-33 (2001); *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001).

<sup>235</sup> 47 U.S.C. § 271(d)(3)(B)

<sup>236</sup> See *Implementation of the Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, Report and Order, 11 FCC Rcd 17539 (1996) (*Accounting Safeguards Order*). Second Order On Reconsideration, FCC 00-9 (rel. Jan. 18, 2000); *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905 (1996) (*Non-Accounting Safeguards Order*), petition for review pending sub nom. *SBC Communications v. FCC*, No. 97-1118 (filed D.C. Cir. Mar. 6, 1997) (held in abeyance May 7, 1997). First Order on Reconsideration, 12 FCC Rcd 2297 (1997) (*First Order on Reconsideration*), Second Order on Reconsideration, 12 FCC Rcd 8653 (1997) (*Second Order on Reconsideration*), *aff'd sub nom. Bell Atlantic Telephone Companies v. FCC*, 131 F.3d 1044 (D.C. Cir. 1997). Third Order on Reconsideration, FCC 99-242 (rel. Oct. 4, 1999) (*Third Order on Reconsideration*).

its section 272 affiliate.<sup>237</sup> In addition, these safeguards ensure that BOCs do not discriminate in favor of their section 272 affiliates.”<sup>238</sup>

69. As the Commission stated in the *Ameritech Michigan Order*, compliance with section 272 is “of crucial importance” because the structural, transactional, and nondiscrimination safeguards of section 272 seek to ensure that BOCs compete on a level playing field.<sup>239</sup> The Commission’s findings regarding section 272 compliance constitute independent grounds for denying an application.”<sup>240</sup> Past and present behavior of the BOC applicant provides “the best indicator of whether [the applicant] will carry out the requested authorization in compliance with section 272.”<sup>241</sup>

## VI. COMPLIANCE WITH THE PUBLIC INTEREST – SECTION 271(D)(3)(C)

70. In addition to determining whether a BOC satisfies the competitive checklist and will comply with section 272, Congress directed the Commission to assess whether the requested authorization would be consistent with the public interest, convenience, and necessity.”<sup>242</sup> Compliance with the competitive checklist is itself a strong indicator that long distance entry is consistent with the public interest. This approach reflects the Commission’s many years of experience with the consumer benefits that flow from competition in telecommunications markets.

71. Nonetheless, the public interest analysis is an independent element of the statutory checklist and, under normal canons of statutory construction, requires an independent determination?” Thus, the Commission views the public interest requirement as an opportunity to review the circumstances presented by the application to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will therefore serve the public interest as Congress expected.

<sup>237</sup> *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21914; *Accounting Safeguards Order*, 11 FCC Rcd at 17550; *Ameritech Michigan Order*, 12 FCC Rcd at 20725.

<sup>238</sup> *Non-Accounting Safeguards Order*, 11 FCC Rcd at 21914, paras. 15-16; *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346.

<sup>239</sup> *Ameritech Michigan Order*, 12 FCC Rcd at 20725, para. 346; *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

<sup>240</sup> *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20785-86, para. 322; *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

<sup>241</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 4153, para. 402.

<sup>242</sup> 47 U.S.C. § 271(d)(3)(C)

<sup>243</sup> In addition, Congress specifically rejected an amendment that would have stipulated that full implementation of the checklist necessarily satisfies the public interest criterion. See *Ameritech Michigan Order*, 12 FCC Rcd at 20737 at para. 360-66; see also 141 Cong. Rec. S7971, S8043 (June 8, 1995).

Among other things, the Commission may review the local and long distance markets to ensure that there are not **unusual** circumstances that would make entry contrary to the public interest under the particular circumstances of the application at issue.<sup>244</sup> Another factor that could be relevant to the analysis is whether the Commission has sufficient assurance that markets will remain open after grant of the application. While no one factor is dispositive in this analysis, the overriding goal is to ensure that nothing undermines the conclusion, based on the Commission's analysis **of** checklist compliance, that markets are open to competition.

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<sup>244</sup> See *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20805-06, para. 360 (the public interest analysis may include consideration of "whether approval . . . will foster competition in all relevant telecommunications markets").

**Statement of  
Commissioner Michael J. Copps,  
Approving in Part, Concurring in Part**

***Re: Application by Verizon Maryland Inc., Verizon Washington, D.C. Inc., Verizon West Virginia, Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Enterprise Solutions), Verizon Global Networks, Inc., and Verizon Select Services Inc. for Authorization to Provide In-Region InterLATA Services in Maryland, Washington, D.C., and West Virginia***

With today's grant of its application to provide long-distance services in Maryland, Washington, D.C., and West Virginia, Verizon has now obtained long-distance authorization for all of its States and Washington, D.C. I commend Verizon for this achievement and the State and D.C. Commissions in that region for their significant efforts to promote competition.

I concur in part rather than approve this decision for the same reasons laid out in my statements to the Orders granting Verizon's applications for New Hampshire, Delaware, and Virginia. As in those Orders, the majority concludes that the statute permits Bell companies in all instances to demonstrate compliance with the checklist by aggregating the rates for non-loop elements. I disagree with the majority's analysis. I believe the better reading of the statute is that the rate for each network element must comport with Congress' pricing directive. We are faced with an analogous situation here.

Now that Verizon has the authority to provide long-distance services nationwide, the real challenge begins. The Commission looks closely at a Bell company's performance to ensure compliance with the statute at the time we consider a Section 271 application. We do not, however, always accord the same vigilance towards ensuring continued compliance. We must institute better follow-up on what happens following a successful application. Competition is not the result of some frantic one-time dash to check-list approval. It is a process over time. It is about -- or should be about -- creating and then sustaining the reality of competition. Our present data on whether competition is taking hold is sketchy and non-integrated. We need **better** data to evaluate whether and how approved carriers are complying with their obligations after grant of the application, as Congress required.

In this effort, we must work closely with the State Commissions. Our expectation is that Verizon will work cooperatively with other carriers to resolve any issues that develop. To the extent that Verizon does not adequately address problems that occur, the Commission and the State Commissions have a shared obligation to enforce swiftly and effectively the market-opening obligations of the Act. Now that we will no longer examine Verizon's performance as part of a Section 271 application, we must be especially proactive and vigilant as we monitor and enforce all facets of Section 271 compliance. By taking this responsibility seriously, we can ensure that consumers continue to reap the benefits of enduring competition as envisioned by Congress in the 1996 Act -- greater choice, lower prices, and better services.



**STATEMENT OF COMMISSIONER KEVIN J. MARTIN,  
APPROVING IN PART AND CONCURRING IN PART**

***Re: Application by Verizon Maryland Inc., Verizon Washington, D.C. Inc., Verizon West Virginia Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization to Provide In-Region, InterLATA Services in Maryland, Washington, D.C., and West Virginia (WC Docket No. 02-384)***

Today we grant Verizon authority to provide in-region, interLATA service originating in District of Columbia and the States of Maryland and West Virginia. I support this Order and commend the District of Columbia Public Service Commission, Maryland Public Service Commission, and the West Virginia Public Service Commission for their hard work.

I must concur, however, with the decision's statutory analysis on the standard for reviewing the pricing of individual unbundled network elements ("UNEs") in Section 271 applications. In today's action, the Commission finds that the statute does not require it to evaluate individually the checklist compliance of UNE TELRIC rates on an element-by-element basis. The Commission concludes that because the statute uses the plural term "elements," it has the discretion to ignore subsequent reference to prices for a particular "element" in the singular. As I have stated in the past, I disagree.<sup>1</sup>

Bell operating companies seeking to enter the long distance market must meet the requirements of the fourteen point checklist contained in section 271 of the Act.<sup>2</sup> The 271 process requires that the Commission ensure that the applicants comply with all of these checklist requirements. One of the items on the checklist requires that the Commission: (i) verify that the Bell operating company provides nondiscriminatory access to network elements; and (ii) ensure that rates are just and reasonable based on the cost of providing "the network element,"<sup>3</sup> in accordance with section 251(c)(3) of the Act.<sup>4</sup>

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<sup>1</sup> See Statement of Commissioner Kevin J. Martin, *Application by Verizon New England Inc., Verizon Delaware Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks, Inc., and Verizon Select Services Inc. for Authorization to Provide In-Region, InterLATA Services in New Hampshire and Delaware (WC Docket No. 02-157)*, October 3, 2002 (*Approving in Part and Concurring in Part*); Statement of Commissioner Kevin J. Martin, *Application by Verizon Virginia Inc., Verizon Long Distance Virginia Inc., Virginia Enterprise Solutions Virginia Inc., Verizon Global Networks, Inc. and Verizon Select Services of Virginia Inc. for Authorization to Provide In-Region, InterLATA Services in Virginia (WC Docket No. 02-214)*, October 30, 2002 (*Approving in Part and Concurring in Part*).

<sup>2</sup> See 47 U.S.C. 271.

<sup>3</sup> See 47 U.S.C. 271(c)(2)(B)(ii) and 47 U.S.C. 252(d)(1).

<sup>4</sup> See 47 U.S.C. 251(c)(3). Requires that incumbent local exchange carriers provide "...nondiscriminatory

The pricing standard for network elements analyzed during the 271 checklist review process resides in Section 252. Under this section, states must set unbundled network element rates that are just and reasonable and “based on the cost of providing the network element.”<sup>5</sup> The clearest reading of this section would seem to require that the Commission ensure that the rates charged for any particular element is based on that element’s cost. Previously, the Commission has determined that this requirement is satisfied by compliance with TELRIC principles for pricing. Thus the most straightforward reading of our statutory obligation is to make sure that the price of every element—and particularly the price of any element that someone specifically alleges is not based on cost—is actually based on cost.

In defense of its statutory interpretation, the Commission argues that because the general statutory provisions refer to the term network elements in the plural, the Commission is not required “to perform a separate evaluation of the rate for each network element in isolation.”<sup>6</sup>

Typical statutory construction requires specific directions in a statute take precedent over any general admonitions. Contrary to such accepted principles of statutory construction, the order suggests that general language referring to the network elements (in the plural form) in sections 252 and 271 trumps the language addressing the specific pricing standard in section 252 that requires a determination on the cost of providing the network element. In my view, such an interpretation runs contrary to those principles.

The decision attempts to find additional support for its statutory interpretation by noting that **the** only party that raised this legal issue on the record also takes the position that some degree of aggregation is appropriate in conducting a benchmark analysis. First, I am not sure that an outside party’s inconsistency could absolve the Commission of its obligation under the Act--in this case-- to evaluate individually the checklist compliance of UNE TELRIC rates on an element-by-element basis.’

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access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. ...”

<sup>5</sup> Section 252(d)(1) states that in relevant part, that “[d]eterminations by a state commission *of*...the just and reasonable rate for network elements for purposes of [section 251(c)(3)]...shall be based on the cost...of providing the...*network element* (*emphasis added*).

<sup>6</sup> Section 271(c)(2)(B)(ii) requires that the Commission determine whether an applicant is providing “[n]ondiscriminatory access to network elements in accordance with the requirements *of*...” the pricing standard enunciated in section 252(d)(1).

<sup>7</sup> Despite references in the decision to the Commission’s long-standing practice of benchmarking and statements regarding rationale provided in prior orders to suppon the Commission’s statutory interpretation -- this is the third time that the Commission has addressed whether it has the authority, under 252(d)(1) and 271, to permit rate benchmarking of nonloop prices in the aggregate rather than on an individual element-by-element basis.

Moreover, it is the Commission's failure to respond to specific allegations and facts regarding **an** individual element that fails to meet the statute's requirements. I appreciate that the Commission may be able to base an initial conclusion on the apparent compliance with its rules at a general level. When specific allegations to the contrary are presented, however, I believe the Commission has an obligation to do more than merely rely on those generalized findings. Rather it must respond to the specific facts raised.

I do not believe the Commission can meet its statutory duty—to make an affirmative finding that the rates are in compliance with Section 252—by merely relying again on generalized findings in the face of specific allegations to the contrary.

In circumstances where a party challenges the pricing of an individual element within an aggregated rate benchmark containing several elements, I do not believe that it would be overly burdensome for the Commission to review the compliance of those elements on an individual basis.

In my view, Section 252(d)(1) sets forth the pricing standard used for determining compliance in Section 271 applications. That standard explicitly requires that we examine UNE rates by each individual "network element." I believe we should not ignore such an explicit Congressional mandate.

For these reasons, I concur in this Order.

**SEPARATE STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: Application by Verizon, Maryland Inc., Verizon Washington, D.C., Verizon West Virginia Inc., Bell Atlantic Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprises Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization to Provide In-Region, InterLATA Services in Maryland, Washington, D.C., and West Virginia (WC Docket No. 02-384)*

Today we grant Verizon authority to provide in-region, interLATA service originating in the District of Columbia and the States of Maryland and West Virginia. I approve this Order and commend the District of Columbia Public Service Commission, the Maryland Public Service Commission and the West Virginia Public Service Commission **for** their hard work. I would also like to commend the Wireline Competition Bureau for its hard work.

My participation in the Section 271 proceedings brings to mind the old saying “better late than never”. I am pleased that I have had the opportunity to participate in at least one of Verizon’s Section 271 applications.

I would like to congratulate Verizon on obtaining Section 271 authority **for** its whole region. Although there are a couple of issues that have been raised by a few of the interested parties, none of them is so egregious that we should deny Verizon’s 271 application to provide in-region InterLATA services in Maryland, Washington, D.C. and West Virginia. Moreover, we can use Section 271(d)(6) to ensure that none of these “interesting” issues becomes more than that.

One concern that has been raised is the question of whether the standard for reviewing the pricing of individual unbundled network elements (“UNEs”) in Section 271 applications. Today the Commission is following established precedent in finding that the statute does not require it to evaluate individually the checklist compliance of UNE TELRIC rates on an element-by-element basis. Although some have raised concerns regarding this sort of analysis, I believe that the Commission has correctly interpreted the statute regarding this determination.

The Commission performs a general assessment of compliance with TELRIC principles, and our benchmark analysis is a method of making the general assessment as to whether UNE rates fall within the range of rates that a reasonable application of TELRIC principles would produce. As a practical matter, the Commission could not evaluate every single individual UNE rate relied upon during the **90** day timeframe during which Congress required we make a decision whether we should grant the request. I believe that our role is to make a generalized decision as to whether network elements are available in accordance with Section 252(d)(1). This is not, cannot and actually should not be a *de novo* review of state-rate setting decisions. That is the role of the State Commissions in this process, as so wisely envisioned by Congress.

I also believe that statutory language does not require that we evaluate individually the checklist compliance of each UNE rate on an element-by-element basis. The language in the statute does not ~~use~~ the term “network element” exclusively in the singular and thus does not unambiguously require an evaluation element-by-element. Moreover, our analysis is reflective of the manner in which many of these elements are purchased and used- in combination with one another.

I approve this Order.